

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

-----X
E. GLUCK CORPORATION,

Civ. No. 08 CV 3466 (VM)(RLE)

Plaintiff,

v.

ADAM ROTHENHAUS,

Defendant.
-----X

**DECLARATION OF RICHARD S. SCHURIN, ESQ. IN FURTHER SUPPORT
OF PLAINTIFF'S MOTION FOR PRELIMINARY RELIEF**

Richard S. Schurin, under penalty of perjury, states as follows:

1. I am an attorney representing the Plaintiff E. Gluck Corporation ("Plaintiff") in the above referenced matter. This Declaration is respectfully submitted in further support of Plaintiff's Motion for Preliminary Relief.
2. On April 14, 2008, I received a letter from counsel for Defendant, Elizabeth Shieldkret responding to the cease and desist letter that had been sent to her client on March 25, 2008. Attached hereto as Exhibit O is a true and correct copy of that letter.
3. Attached hereto as Exhibit P is a true and correct copy of the letter that I sent to Elizabeth Shieldkret on April 17, 2008.
4. On April 18, 2008, I instructed Mr. Koenig Pierre, our firm's paralegal to contact a process server and serve the Complaint on the Defendant. Attached hereto as Exhibit Q is a true and correct copy of the letter sent by Mr. Pierre to United Process Service under my direction and supervision.

5. On May 9, 2008, I called counsel for Defendant to advise her of Plaintiff's intent to seek injunctive relief, either a TRO or a preliminary injunction. In the course of our conversation she made it clear to me that Defendant would not agree to stop using the mark at issue. She also requested sufficient notice if Plaintiff would be seeking a TRO, to which I agreed. On the next business day, May 12, 2008, I wrote the Court seeking permission to make a motion for a preliminary injunction. The purpose of my call was not to threaten or harass Mr. Rothenhaus.

6. Attached hereto as Exhibit R is a true and correct copy of the docket sheet in the matter entitled, E. Gluck Corp. v. The Now Project, LLC, Docket No. 08 cv 03090 (PAC) (hereinafter "the TNP litigation").

7. Attached hereto as Exhibit S is a true and correct copy of the Complaint filed in the TNP litigation. As indicated therein, the Defendants in that case, were selling bracelets, and not watches.

8. Attached hereto as Exhibit T is a true and correct copy of the Settlement Agreement entered in the above case. As indicated therein, TNP agreed to stop using the mark NOW, surrender its trademark registration, and make a payment to Plaintiff to compensate it for some of its attorney's fees. As also indicated therein, TNP represents that it sold no more than 200 units of the allegedly infringing bracelets.

9. Attached hereto as Exhibit U is a copy of the Surrender of Registration filed by TNP in the Patent and Trademark Office pursuant to the settlement agreement entered into by the parties.

10. During the week of July 11, 2008, I conducted a search of the Patent and Trade Office's official Website for evidence of registration of product marks by entities well known in the watch field.

11. Attached hereto as Exhibit V are true and correct copies of documents that I retrieved from the public records of the PTO relating to Trademark Registration No. 2,111,385 for the mark ECO-DRIVE filed by Citizen Tokei Kabushiki Kaisha TA Citizen Watch Co., Ltd. ("Citizen"). Included is a Record of Registration; the Declaration of Use and Incontestability, and Specimen filed by Citizen on October 3, 2003; the PTO's Notice of Acceptance dated May 4, 2004; the Renewal Declaration and Specimen filed by Citizen on November 5, 2007; and the PTO's Notice of Acceptance dated November 17, 2007.

12. Attached hereto as Exhibit W are true and correct copies of documents that I retrieved from the public records of the PTO relating to Trademark Registration No. 1,309,929 for the mark DE VILLE filed by Omega S.A. ("Omega"). Included is a Record of Registration; the Renewal Declaration and Specimen filed by Omega on September 20, 2004; and the PTO's Notice of Acceptance dated November 12, 2004.

13. Attached hereto as Exhibit X are true and correct copies of documents that I retrieved from the public records of the PTO relating to Trademark Registration No. 2,209,648 for the mark SPORTURA filed by Seiko Kabushiki Kaisha TA Seiko Holdings Corporation ("Seiko"). Included is a Record of Registration; the Declaration of Use and Incontestability, and Specimen filed by Seiko on May 19, 2004; and the PTO's Notice of Acceptance dated December 20, 2004.

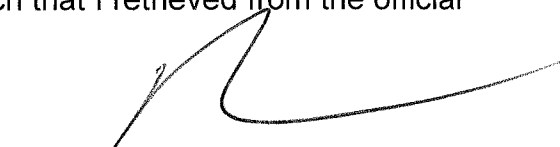
14. Attached hereto as Exhibit Y is a true and correct copy of Section 904.03 of the Trademark Manual of Examining Procedure.

15. Attached hereto as Exhibit Z are true and correct copies of depictions of third party watches that were retrieved from the Internet during the Week of July 11, 2008.

16. Attached hereto as Exhibit AA is a true and correct copy of an interview of Defendant Adam Rothenhaus that was published on the Internet and which I retrieved from an Internet search that I conducted during the Week of July 11, 2008.

17. During the week of July 11, 2008, I conducted a ten minute search of the Patent and Trade Office's official Website for evidence of registration of product marks by entities well known in the watch field wherein the specimen offered was a hang-tag.

18. Attached hereto as Exhibit BB are true and correct copies of documents that I retrieved from the public records of the PTO relating to Trademark Registration No. 239,383 for the mark OYSTER filed by Rolex Watch USA. ("Rolex"). Included is a Record of Registration; the Declaration of Use and Incontestability and Specimen consisting of a hang-tag filed by Rolex on June 5, 2008; and the PTO's Notice of Acceptance dated June 18, 2008. Also included in this Exhibit is a copy of a page depicting a watch that I retrieved from the official Rolex Website located at www.rolex.com.

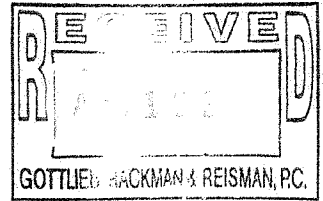


Richard S. Schurin

Dated: July 18, 2008

EXHIBIT O

ELIZABETH SHIELDKRET
ATTORNEY AT LAW
85-86 67TH AVENUE
REGO PARK, NY 11374
TEL: 718-997-0290
FAX: 718-997-0291
es@eshieldkret.com
www.eshieldkret.com



April 14, 2008

By Fax
Confirmation By Mail

Marc P. Misthal, Esq.
Gottlieb Rackman & Reisman, P.C.
270 Madison Avenue
New York, NY 10016-0601

Re: The Now Watch

Dear Mr. Misthal:

I represent Adam Rothenhaus. I write in response to your March 25, 2008 e-mail. Please direct correspondence concerning this matter to my attention.

In your e-mail you wrote, "your use of 'The Now Watch' as well as your use of the domain name 'thenowwatch.com' **in connection with** the sale of watches with the term 'now' on their face creates confusion as to our client's federally protected NOW mark." (emphasis added.) It is not clear from your writing whether you mean the domain name "creates confusion," or only the sale of watches in connection with the domain name "creates confusion." You do not assert, however, that the design of Mr. Rothenhaus's watch is in any way an infringement of Gluck's mark. Indeed, Mr. Rothenhaus believes that he has sufficiently distinguished his use from your client's registration so that there is no likelihood of confusion between the two.

You did not say Mr. Rothenhaus's website and use of The Now Watch "is likely to cause confusion," the legal standard. Instead you said the use "creates confusion." Are you aware of instances of actual confusion by purchasers or potential purchasers? If so, please describe the circumstances of each such incident.

Marc P. Misthal, Esq.
April 14, 2008

Page 2 of 2

You also write:

We also advise you that any and all use of our client's trademark, whether as part of an e-mail address, domain name or the like, or in any other way, constitutes infringement of our client's trademark rights, unfair competition and dilution.

Your client has a registration on the three-letter, standard English word "now." Your claim that any use of the word "now" as part of an e-mail address, domain name or in any other way constitutes trademark infringement, unfair competition and dilution is problematic for your client. Such a position is either egregious overreaching or justifies cancellation of the mark for an extensive period of lack of enforcement against numerous users. Please cite to me a case related to any standard English word that supports your above-quoted assertion.

What factual bases do you have for claiming that Mr. Rothenhaus has "no rights or legitimate interests in respect of the domain name," thenowwatch.com? Please also provide all factual bases for your assertion that the domain "was registered and is being used in bad faith." Your correspondence fails to identify any factual support for your assertions and demands, and ignores the factors enumerated in 15 U.S.C. § 1125(d)(1)(B).

Under these circumstances, your demand that Mr. Rothenhaus sign over the domain name does not appear to be based on either fact or law. You claim to have reviewed Mr. Rothenhaus's registration agreement with GoDaddy. Before you make accusations against my client to GoDaddy or anyone else, you must have an articulable basis in fact and law.

You write that Gluck sells its products throughout the world. Please identify each country where Gluck claims rights in "now" for watches through use, registration or international treaty.

I look forward to receiving the above-requested information.

Very truly yours,


Elizabeth Shieldkret

EXHIBIT P

GOTTLIEB, RACKMAN & REISMAN, P.C.

COUNSELORS AT LAW

PATENTS • TRADEMARKS • COPYRIGHTS • INTELLECTUAL PROPERTY

270 MADISON AVENUE

NEW YORK, N.Y. 10016-0601

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BARBARA H. LOEWENTHAL
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STEVEN STERN
YUVAL H. MARCUS

PATENT AGENT
ZOYA V. CHERNINA

OF COUNSEL
DIANA MULLER*

* MEMBER OF THE BAR
OF ARGENTINA ONLY

April 17, 2008

Via Fax and U.S. Mail

Elizabeth Shieldkret, Esq.
85-86 67th Avenue
Rego Park, N.Y. 11374

Re: E. Gluck Corp. v. Adam Rothenhaus
08 Civ. 3466

Dear Ms. Shieldkret:

This firm represents E. Gluck Corporation. We write in reply to your letter dated April 14, 2008.

Our cease and desist letter required your client's substantive response on or before March 28, 2008. Since your client failed to provide us with a substantive response by such date, we commenced an action against him in the Southern District of New York. A copy of said Complaint is enclosed herewith. Please let us know if you will accept service of same on behalf of your client.

In response to your letter, if your client agrees to stop selling and recall the infringing watches and immediately removes his Website, we will provide you with the relevant discovery that you request on an informal basis. Otherwise, you can seek such discovery in the context of the civil action.

Should you have any questions regarding this matter, please do not hesitate to call me.

Very truly yours,
GOTTLIEB, RACKMAN & REISMAN

Richard S. Schurin

Enclosure

EXHIBIT Q

GOTTLIEB, RACKMAN & REISMAN, P.C.

COUNSELORS AT LAW

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OF COUNSEL
DIANA MULLER*

* MEMBER OF THE BAR
OF ARGENTINA ONLY

April 18, 2008

VIA FED EX

United Process Services, Inc.
315 Broadway, 3rd Floor
New York, NY 10007

Re: E. GLUCK CORPORATION v. ADAM ROTHEHAUS. (08 CV 3466)

Dear Sir or Madam:

Enclosed please find a copy of a Summons, Complaint, the Individual Practices of the Hon. Victor A. Marrero, the Individual Practices of Magistrate Judge Ronald L. Ellis and the 3rd Amended Instructions for Filing an Electronic Case or Appeal to be served on the following defendant:

- **[ADAM ROTHENHAUS], [20 E. 9th Street Apt. 6W New York, NY 10003-5944]**

Please execute rush service on Monday, April 21, 2008 and return to us an Affidavit of Service.

Very truly yours,

Gottlieb, Rackman & Reisman, P.C.



Koenig Pierre
Litigation Paralegal

RSS/kp
0172/510
Encls.

EXHIBIT R

CLOSED, ECF

U.S. District Court
United States District Court for the Southern District of New York (Foley Square)
CIVIL DOCKET FOR CASE #: 1:08-cv-03090-PAC

E. Gluck Corporation v. The Now Project, LLC et al
Assigned to: Judge Paul A. Crotty
Cause: 15:1051 Trademark Infringement

Date Filed: 03/26/2008
Date Terminated: 05/27/2008
Jury Demand: None
Nature of Suit: 840 Trademark
Jurisdiction: Federal Question

Plaintiff**E. Gluck Corporation**

represented by **Richard Scott Schurin**
Gottlieb Rackman & Reisman, P.C.
270 Madison Avenue
New York, NY 10016
212-684-3900
Fax: 212-684-3999
Email: rschurin@grr.com
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

V.

Defendant**The Now Project, LLC****Defendant****Robert Jonathan Richman**

Date Filed	#	Docket Text
03/26/2008	<u>1</u>	COMPLAINT against The Now Project, LLC, Richman Jonathan Robert. (Filing Fee \$ 350.00, Receipt Number 645986)Document filed by E. Gluck Corporation. (Attachments: # <u>1</u> Exhibit 1, # <u>2</u> Exhibit 2)(mbe) (Entered: 03/28/2008)
03/26/2008		SUMMONS ISSUED as to The Now Project, LLC, Richman Jonathan Robert. (mbe) (Entered: 03/28/2008)
03/26/2008		Magistrate Judge Kevin N. Fox is so designated. (mbe) (Entered: 03/28/2008)
03/26/2008	<u>2</u>	RULE 7.1 CORPORATE DISCLOSURE STATEMENT. No Corporate Parent. Document filed by E. Gluck Corporation.(mbe) (Entered: 03/28/2008)
03/26/2008		Case Designated ECF. (mbe) (Entered: 03/28/2008)

04/17/2008	<u>3</u>	STIPULATION AND ORDER, that defendants time to serve and file an answer is hereby extended until and through 4/30/08. The Now Project, LLC answer due 4/30/2008; Robert Jonathan Richman answer due 4/30/2008. (Signed by Judge Paul A. Crotty on 4/17/08) (cd). (Entered: 04/17/2008)
05/21/2008	<u>4</u>	FILING ERROR - ELECTRONIC FILING FOR NON-ECF DOCUMENT - NOTICE of Notice of Dismissal. Document filed by E. Gluck Corporation. (Schurin, Richard) Modified on 5/22/2008 (db). (Entered: 05/21/2008)
05/22/2008		***NOTE TO ATTORNEY TO RE-FILE DOCUMENT - NON-ECF DOCUMENT ERROR. Note to Attorney Richard Scott Schurin to E-MAIL Document No. <u>4</u> Notice of Dismissal to orders_and_judgments@nysd.uscourts.gov. This document is not filed via ECF. (db) (Entered: 05/22/2008)
05/27/2008	<u>5</u>	NOTICE OF DISMISSAL PURSUANT TO FED.R.CIV.PROC. 41(a)(1)(A)(i): Plaintiff E. Gluck Corp., by and through its counsel hereby dismisses the above captioned action. Said dismissal, filed pursuant to F.R.C.P. 41(a)(1)(i), is with prejudice and without costs to any party. The Clerk of the Court is directed to close this case. SO ORDERED. (Signed by Judge Paul A. Crotty on 5/27/2008) (tve) (Entered: 05/27/2008)

PACER Service Center			
Transaction Receipt			
07/17/2008 13:38:06			
PACER Login:	gr0099	Client Code:	
Description:	Docket Report	Search Criteria:	1:08-cv-03090-PAC
Billable Pages:	1	Cost:	0.08

EXHIBIT S

JUDGE CROTTY

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

-----X
E. GLUCK CORPORATION,

Plaintiff,

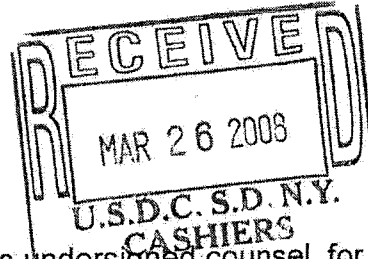
v.

THE NOW PROJECT, LLC and
ROBERT JONATHAN RICHMAN,

Defendants.
-----X

08 CV 03090

COMPLAINT



Plaintiff, E. Gluck Corporation, by and through its undersigned counsel, for its Complaint against defendants The Now Project, LLC and Robert Jonathan Richman states and alleges as follows:

1. This is a case of trademark infringement and unfair competition under the Lanham Act, 15 U.S.C. § 1051 et seq.

THE PARTIES

2. Plaintiff E. Gluck Corporation ("Gluck" and/or "plaintiff") is a New York Corporation having a principal place of business in Long Island City, New York.
3. Plaintiff is one of the largest watch companies in the United States. As part of its business, plaintiff creates, designs and has manufactured for sale watches and bracelets of all kinds and types which it sells under various trademarks. The trademarks owned by plaintiff include the NOW trademark at issue herein. A color copy of a recent advertisement of plaintiff's NOW branded watches is attached hereto as **Exhibit A**.
4. In addition to watches, plaintiff also sells jewelry to be worn on the wrist,

including bracelets, and has sold bracelets under its NOW trademark, and in association with its NOW branded watches. Photographs of watch and bracelet combination products sold under the NOW mark are attached hereto as **EXHIBIT B.**

5. Plaintiff's NOW trademark is the subject of a valid United States Trademark Registration, first registered in the 1980's, and over the last twenty-two (22) years, plaintiff has extensively advertised and promoted its NOW branded products and has achieved substantial commercial success selling products under the NOW trademark.
6. Upon information and belief, defendant The Now Project, LLC ("TNP") is a California corporation.
7. Upon information and belief, TNP has distributed products through licensees and/or authorized agents or retailers via the Internet, and has directed sales of products to persons residing in New York.
8. Upon information and belief, defendant Robert Jonathan Richman ("Richman") is an individual residing in Venice, California.
9. Upon information and belief, Richman is the owner of TNP, and has distributed products through licensees and/or authorized agent or retailers via the Internet, and has directed sales to persons residing in New York.
10. This Court has subject matter jurisdiction over this action pursuant to 15 U.S.C. § 1121 et seq. (the Lanham Act) and 28 U.S.C. §§1331, 1332, 1338 and 1367.
11. Venue is proper in this judicial district under 28 U.S.C. § 1391.

PLAINTIFF'S BUSINESS AND TRADEMARK RIGHTS

12. Plaintiff has been manufacturing and selling watches nationwide since 1956. At present, plaintiff is one of the largest manufacturers and wholesale merchants of watches in the United States.

13. For over twenty years, and since 1986, plaintiff has continuously marketed and sold watches under its NOW trademark. Plaintiff's NOW branded watches have been, and continue to be, sold nationwide to the public through thousands of retailers and on the Internet.
14. Prior to 2004 and continuously thereafter, plaintiff has marketed and sold bracelets under its NOW trademark. Such bracelets have been sold, and continue to be sold, nationwide to the public through thousands of retailers and on the Internet.
15. In accordance with the provisions of the Lanham Act, plaintiff has registered its NOW trademark in the United States Patent and Trademark Office and is the owner of the United States Trademark Registration No. 1,446,294 for watches in International Class 14. International Class 14 includes both watches and jewelry.
16. Plaintiff's United States Trademark Registration is now an "incontestable" trademark registration. A copy of plaintiff's Registration Certificate is attached hereto as **Exhibit C**.
17. This Registration constitutes *prima facie* evidence of plaintiff's ownership of the NOW trademark in Class 14 (including watches and jewelry) and of Plaintiff's exclusive right to use this mark.
18. By reason of the activities described herein, plaintiff owns valuable goodwill associated with the trademark NOW in the United States.

DEFENDANTS INFRINGING ACTIVITIES

19. Upon information and belief, and without plaintiff's knowledge, permission or consent, in or about August 2004, defendant Richman designed, had manufactured and distributed in commerce what defendant describes as "the NOW watch bracelet."

20. Upon information and belief, "the NOW watch bracelet" is a non-functional watch, i.e., it appears to be a watch and is worn on the wrist but does not actually tell time. A photograph of Richman's NOW watch bracelet is attached hereto as **Exhibit D**.
21. Upon information and belief, notwithstanding the fact that the subject product does not actually tell time, defendants Richman and TNP often market the NOW watch bracelet as a watch. For example, a Google search of the combined terms "now" and "watch" discloses on the very first result page a Website advertising the defendants product as the "NOW Watch" without any mention of the fact that it is actually a "bracelet." Moreover, directly alongside the advertisement and photo of the defendant's product is an advertisement for RADO brand designer watches. A copy of this advertisement is attached hereto as **Exhibit E**.
22. Upon information and belief, and once again without plaintiff's knowledge, permission or consent on or about July 5, 2005, defendant Richman submitted an application to register the trademark NOW in the United States Patent and Trademark Office.
23. The Trademark Office initially rejected Richman's application for among other reasons that such registration and use would create a likelihood of confusion with plaintiff's incontestable mark.
24. Richman made various arguments in an attempt to overcome the Trademark Office's initial rejection. One of the arguments that Richman made was that plaintiff's rights "are strictly limited to watches."
25. On or about October 2, 2007, the Trademark Office granted defendant's application for registration and issued Reg. No. 3,301,750 for the trademark NOW in International Class 14 for a "Bracelet having the appearance of a watch."
26. On or about December 13, 2007, Richman assigned said registration to TNP;

and TNP is now the registered owner of said mark.

COUNT I
(Trademark Infringement Under The Lanham Act)

27. Plaintiff repeats and realleges the allegations contained in paragraphs 1 through 26 of this Complaint as if fully set forth herein.
28. This Count arises under Section 32 of the Trademark Act of 1946, as amended, 15 U.S.C. §1114(1).
29. The unauthorized use, advertising, promotion, and registration of the mark "NOW" by defendants Richman and TNP is likely to cause confusion, or to cause mistake, or to deceive, purchasers in relation to plaintiff's identical "NOW" trademark.
30. The activities of the defendants complained of herein constitute infringement of plaintiff's federally registered "NOW" trademark.
31. Plaintiff has provided notice to defendants that their use and registration of the NOW mark violates plaintiff's rights. Nevertheless, the activities of the defendants have continued in spite of their knowledge that the use of the "NOW" name was in direct contravention of plaintiff's proprietary rights.
32. Upon information and belief, defendants have in the past, and continue to, deliberately and intentionally advertise, promote, distribute and sell products under the name "NOW" to the purchasing public in order to cause said confusion, mistake or deception as to the source of its goods.
33. Defendants are not and have never been authorized or licensed by plaintiff, nor have defendants ever received permission from plaintiff to manufacture, advertise, promote, distribute or sell products under the "NOW" name.
34. By reason of defendants' acts alleged herein, plaintiff has been damaged and unless defendants are restrained from continuing their wrongful acts, the damage

to plaintiff, which is irreparable, will increase. The monetary damages to plaintiff will be, unless defendants ceases their wrongful acts, in excess of \$150,000.

35. Plaintiff has no adequate remedy at law.

COUNT II
(Unfair Competition under the Lanham Act)

36. Plaintiff repeats and realleges the allegations contained in paragraphs 1 through 35 of this Complaint as if fully set forth herein.

37. This Count arises under Section 43 of the Trademark Act of 1946, as amended, 15 U.S.C. §1125(a).

38. By reason of the foregoing acts of the defendants as alleged herein, defendants have falsely described, represented, and designated the origin of their products.

39. These activities are likely to cause and have caused confusion amongst the public, and are likely to deceive and have deceived customers concerning the source of the products supplied by the defendants.

40. Plaintiff has no control over the quality of the defendants products that are promoted, advertised, and sold under such false and misleading designation of origin, with the result that plaintiff's valuable goodwill in its "NOW" mark is being damaged.

41. Upon information and belief, defendants will continue to make such false designations of origin for and in connection with its products unless restrained by this Court.

42. By reason of the foregoing acts of defendants, as alleged herein, plaintiff is suffering irreparable harm and has been damaged. Since it has no adequate remedy at law, plaintiff seeks a permanent injunction enjoining defendants from promoting, advertising, distributing and selling any products under the "NOW" name, together with damages in an amount thus far not determined, but which is likely, if defendants do not cease their activities, to be in excess of \$150,000.

COUNT III
(Unfair Competition Under New York Law)

43. Plaintiff repeats and realleges the allegations contained in paragraphs 1 through 42 of this Complaint as if fully set forth herein.
44. This Count is for Unfair Competition under New York General Business Law.
45. By reason of the foregoing acts of the defendants as alleged herein, there exists a likelihood of injury to the reputation and valuable goodwill of plaintiff. The nature and quality of the products which defendants advertise and sell under the "NOW" name do not meet the high quality standards established by plaintiff for its products, which are identified with the distinctive "NOW" mark.
46. Defendants have unlawfully used plaintiff's trademark which has created a likelihood of confusion and mistake on the part of the public as to the source or origin of the products supplied by the defendant.
47. Defendants actions have caused, and are likely to continue to cause, plaintiff's customers to be misled into believing that defendants are licensed, sponsored by, associated, or connected with plaintiff.
48. Defendants conduct, as set forth herein, constitutes unfair competition under New York law.
49. Plaintiff is suffering irreparable harm and damage as a result of the acts of defendant as alleged herein. Since it has no adequate remedy at law, plaintiff seeks a permanent injunction enjoining defendants from promoting, advertising, distributing and selling any products under the "NOW" name, together with damages in an amount thus far not determined, but which is likely, if defendants do not cease their activities, to be in excess of \$150,000.

WHEREFORE, Plaintiff prays for the following relief:

(1) That defendants, their directors, officers, agents, servants, employees, attorneys, representatives, successors and assigns, and all those acting in active concert or participation with them, each and all of them, be enjoined and restrained, during the pendency of this action and permanently, from engaging in or performing any and all of the following:

(A) Directly or indirectly infringing plaintiff's "NOW" trademark in any manner, including generally, but not limited to, advertising, promoting, distributing and selling products which bear terms which infringe said trademarks and specifically, using or displaying the name or mark "NOW" or any other names or marks confusingly similar to plaintiff's registered trademark, "NOW", as a trade mark, service mark, trade name or part thereof, alone or in combination with other words, symbols, styles, titles or marks in connection with the advertising, distribution and sale of products.

(B) Using any designation, trademark, trade name, logo or design that tends falsely to represent, or is likely to confuse, mislead, or deceive purchasers, defendants' customers, or members of the public into believing that unauthorized products promoted, advertised or offered by defendants originate from plaintiff, or that said products have been sponsored, authorized or licensed by or associated with plaintiff or is in some way connected or affiliated with plaintiff.

- (C) Otherwise infringing plaintiff's "NOW" trademark or competing unfairly with plaintiff in any manner or damaging Plaintiff's respective goodwill, reputation or business; and
- (2) That defendant's United States Trademark Registration for the trademark NOW in International Class 14 be cancelled, and that defendant's be prohibited from registering the mark "NOW" or any variation thereof.
- (3) That defendants be required to deliver up for destruction all products, promotional material, boxes, labels, packages, containers and all other materials bearing the name or mark "NOW", together with all means, including plates, molds, matrixes etc. for making or reproducing the same pursuant to 15 U.S.C. § 1118 and the common law.
- (4) That damages be awarded to plaintiff in the full amount plaintiff has sustained as a consequence of defendant's acts, together with any and all profits of defendants which are attributable or arise out of or from such wrongful acts or infringements.
- (5) That plaintiff recover from defendant all of its litigation expenses, including reasonable attorney fees and costs pursuant to 15 U.S.C. §1117 and all other applicable laws.

- (6) That plaintiff have such other, further or additional relief as this Court may deem just and proper.

Respectfully submitted,
GOTTLIEB, RACKMAN & REISMAN
Attorneys for Plaintiff

DATED: March 26, 2008



Richard S. Schurin (RS 0199)
270 Madison Ave.
New York, N.Y. 10016
(212) 684-3900

EXHIBIT A

OFF

\$45

REG. \$60
050-VAR

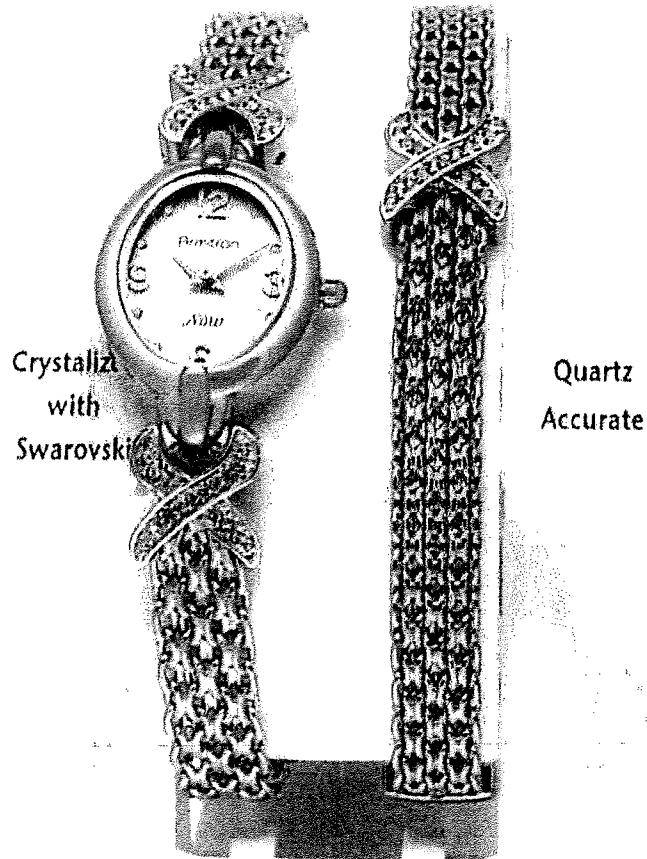


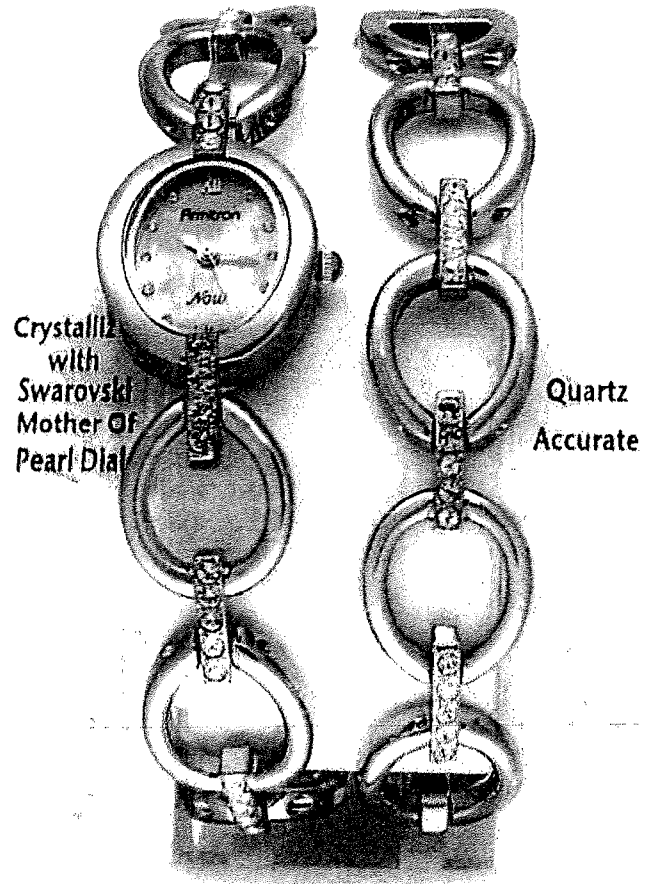
DIAMOND
ON DIAL

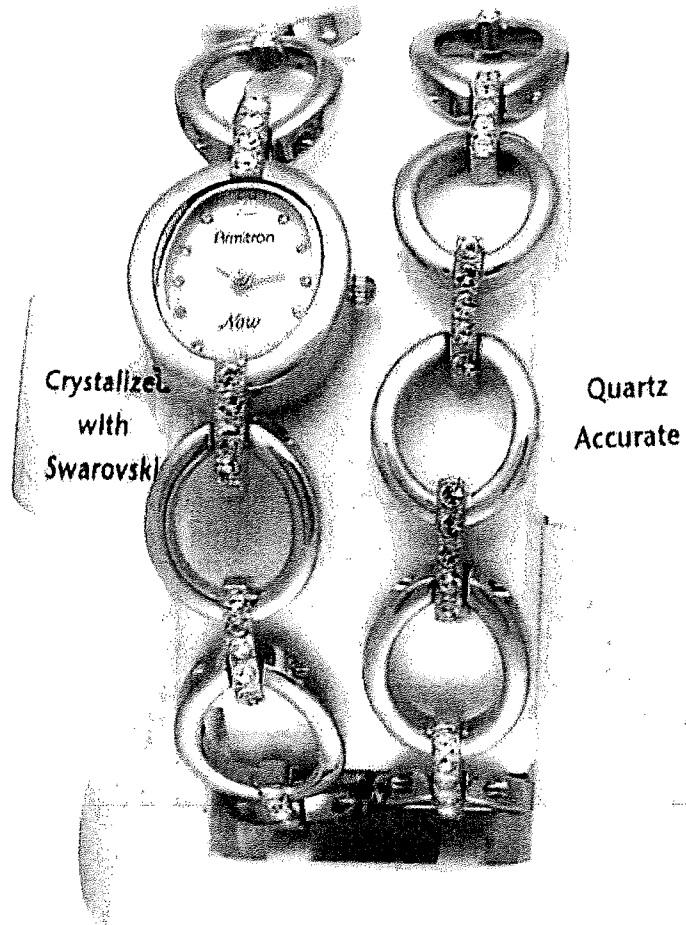
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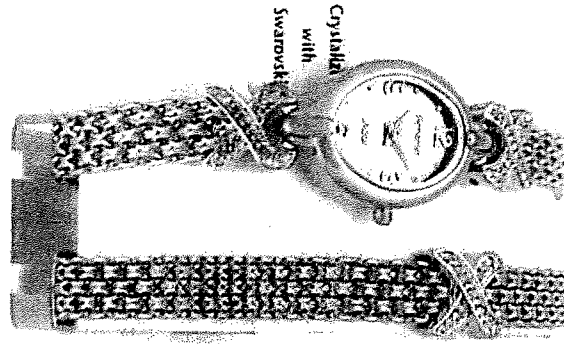
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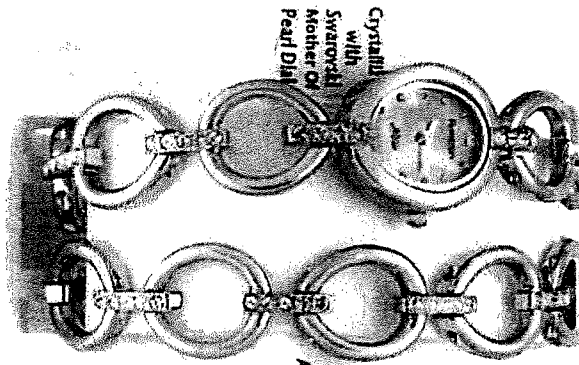




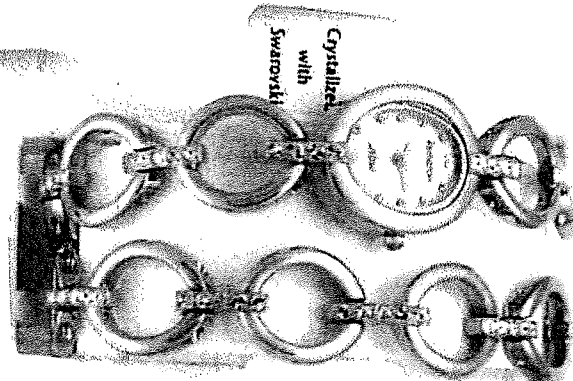




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EXHIBIT C

Int. Cl.: 14

Prior U.S. Cl.: 27

United States Patent and Trademark Office

Reg. No. 1,446,294

Registered July 7, 1987

TRADEMARK
PRINCIPAL REGISTER

NOW

E. GLUCK CORPORATION (NEW YORK COR-
PORATION)
29-10 THOMSON AVENUE
LONG ISLAND CITY, NY 11101

FIRST USE 9-16-1986; IN COMMERCE
9-16-1986.

SER. NO. 628,672, FILED 11-5-1986.

FOR: WATCHES, IN CLASS 14 (U.S. CL. 27).

C. A. SIDOTI, EXAMINING ATTORNEY

EXHIBIT D

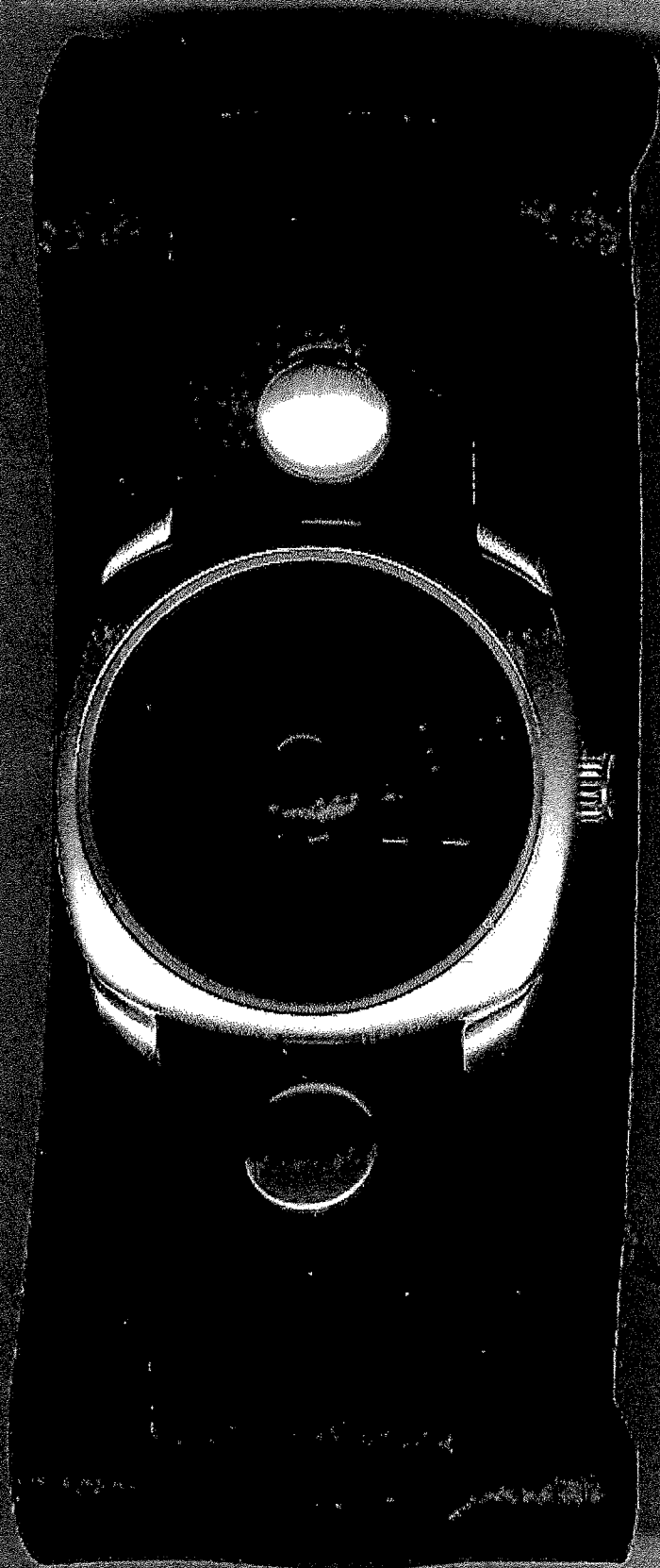


EXHIBIT E



now watch

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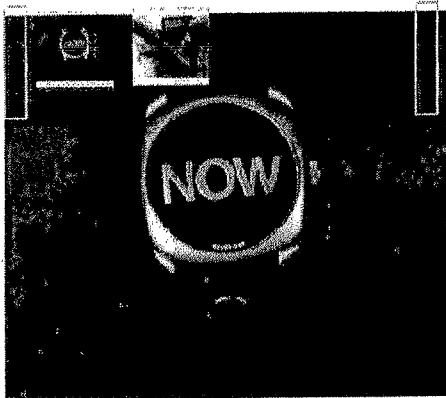
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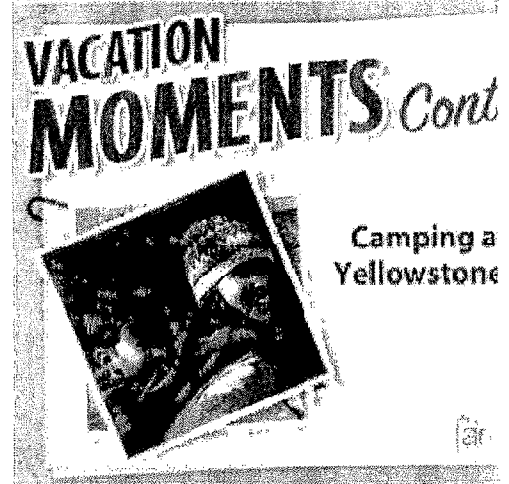
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Updated Jun 11, 2007

It's a watch. No it's a cuff. No it's a statment. Really, it's all three and I like it. I guess you could say this is a ThisNext exclusive since no one has heard of the NOW watch, yet.

Morgan, the designer, wears it very well but I was a touch skeptical as to how it would look on a female arm so we put it on Fashion Kitty. The response was, and I quote, "Bomb Ass."

I agree.

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EXHIBIT T

SETTLEMENT AGREEMENT

This Settlement Agreement ("Agreement") is made and entered into as of the date last signed, by and between E. Gluck Corp. ("Gluck") on the one hand, and The Now Project, LLC and Robert Jonathan Richman (collectively "TNP") on the other hand.

WHEREAS, Gluck commenced an action against TNP in the United States District Court for the Southern District of New York alleging trademark infringement and other claims;

WHEREAS, The Now Project is the owner of U.S. Registration No. 3,301,750 for the NOW mark for a "bracelet having the appearance of a watch," obtained by Robert Jonathan Richman;

WHEREAS, TNP denies all liability for the trademark infringement and other claims alleged by Gluck; and

WHEREAS, the parties hereto now desire to fully and finally settle and discharge all claims between them relating to Gluck's claims.

TERMS

NOW THEREFORE, in consideration of the promises and mutual covenants and agreements contained herein, the parties hereto covenant and agree as follows:

1. Representations

a. Gluck represents that it is the owner of U.S. Registration No. 1,446,294, for the trademark NOW, and that said trademark registration is valid.

b. TNP represents that it sold no more than two hundred (200) units of the subject Now Watch Bracelet.

2. Surrender of TNP's Registration

Within ten (10) days of the execution of this Agreement, TNP shall surrender for cancellation U.S. Registration No. 3,301,750.

3. Payment

Within ten (10) days of the execution of this Agreement, TNP shall provide to Gluck's counsel a check in the amount of one thousand five hundred dollars (\$1,500). Said check shall be made payable to Gottlieb, Rackman & Reisman P.C. as attorneys for E. Gluck Corporation.

4. Cessation of Future Use

TNP hereby agrees that it will refrain from using the NOW mark, or any confusingly similar mark, on or in connection with jewelry, including bracelets, watches and other similar goods.

5. Dismissal

After the settlement check has cleared, counsel for Gluck shall sign and file the Notice of Dismissal attached hereto as Exhibit A.

6. Release

(a) Subject to the provisions of this Agreement, Gluck releases TNP from all claims, demands, actions, causes of action, suits, damages, losses and expenses, of any and every nature whatsoever, which arise out of or relate to the allegedly infringing products that are the subject of the instant lawsuit.

(b) Subject to the provisions of this Agreement, TNP releases Gluck from all claims, demands, actions, causes of action, suits, damages, losses and expenses, of any and every nature whatsoever, which arise out of or relate to the allegedly infringing products that are the subject of the instant lawsuit.

7. Entire Agreement.

This Agreement contains the final and entire agreement between the parties with respect to the subject matter hereof. The terms of this Agreement are contractual and not a mere recital. This Agreement is entered into and executed without reliance upon any promise, warranty, or representation by any party or any representative of any party hereto, other than those expressly contained herein. Any amendment to this

Agreement must be approved in writing and signed by all parties.

IN WITNESS WHEREOF, the parties have executed this Agreement as of the date signed below .


E. GLUCK CORPORATION

Dated: April __, 2008

By: _____
Name:
Title:

THE NOW PROJECT, LLC

Dated: April 25, 2008

By:  _____
Name: Robert Richman
Title: CEO

JONATHAN ROBERT RICHMAN

Dated: April 25, 2008

By:  _____

Agreement must be approved in writing and signed by all parties.

IN WITNESS WHEREOF, the parties have executed this Agreement as of the date signed below .

E. GLUCK CORPORATION

Dated: April 25, 2008

By: 

Name:

Title:

VP SIDNEY GLUCK

THE NOW PROJECT, LLC

Dated: April __, 2008

By: _____

Name:

Title:

JONATHAN ROBERT RICHMAN

Dated: April __, 2008

By: _____

EXHIBIT U

POST-REG DIVISION

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Registration of:

THE NOW PROJECT, LLC

Reg. No.: 3,301,750

Reg. Date: October 2, 2007

Class: 014

Mark: NOW

Commissioner for Trademarks
P.O. Box 1451
Alexandria, Virginia 22313-1451

SURRENDER OF REGISTRATION FOR CANCELLATION

Registrant, The Now Project, LLC, hereby surrenders its U.S. Registration No. 3,301,750
for cancellation under §7(e) of the Trademark Act, 15 U.S.C. §1057(e).

Respectfully Submitted,

April 24, 2008

By: 

Robert Richman
Chief Executive Officer
The Now Project, LLC
816½ Superba Avenue
Venice, California 90291

DMEAST #10027432 v1

EXHIBIT V



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Eco-Drive

Word Mark	ECO-DRIVE
Goods and Services	IC 014. US 002 027 028 050. G & S: watches. FIRST USE: 19961000. FIRST USE IN COMMERCE: 19961000
Mark Drawing Code	(5) WORDS, LETTERS, AND/OR NUMBERS IN STYLIZED FORM
Serial Number	75111004
Filing Date	May 28, 1996
Current Filing Basis	1A
Original Filing Basis	1B
Published for Opposition	December 3, 1996
Registration Number	2111385
Registration Date	November 4, 1997
Owner	(REGISTRANT) Citizen Tokei Kabushiki Kaisha TA Citizen Watch Co., Ltd. CORPORATION JAPAN 1-12, 6-chome, Tanashi-cho, Nishi-tokyo-shi Tokyo JAPAN
	(LAST LISTED OWNER) CITIZEN HOLDINGS CO., LTD. CORPORATION 1-12, 6-CHOME TANASHI-CHO, NISHI-TOKYO-SHI TOKYO 188-8511 JAPAN
Assignment Recorded	ASSIGNMENT RECORDED
Attorney of Record	RONALD E. SHAPIRO
Type of Mark	TRADEMARK

Register PRINCIPAL
Affidavit Text SECT 15. SECT 8 (6-YR). SECTION 8(10-YR) 20071115.
Renewal 1ST RENEWAL 20071115
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Telephone: 202-344-4000
Facsimile: 202-344-8300

www.venable.com



Mark B. Harrison
(202) 962-4019
mbharrison@venable.com

October 30, 2003

Honorable Assistant Commissioner for Trademarks
2900 Crystal Drive
Arlington, Virginia 22202-3513

Re: U.S. Trademark Registration 2,111,385
Mark: **ECO-DRIVE (Stylized)**
Registrant: Citizen Tokei Kabushiki Kaisha
Our Reference: 31389-131357

Sir:

We enclose the following for filing in the Patent and Trademark Office:

- ☒ Declaration of Use and Incontestability
- ☒ Specimen
- ☒ Check for \$300.00

Authorization is granted to deduct any deficiency in the filing fee from Deposit Account No. 22-0261 and notify us accordingly.

Sincerely,

A handwritten signature in black ink that reads "Mark B. Harrison".

Mark B. Harrison

MBH/lmf
Enclosures



10-30-2003

Patent & TMO/Tol Mail Rpt Dt #39

WASHINGTON, DC MARYLAND VIRGINIA

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
Trademark Operations

Registrant: Citizen Tokei Kabushiki Kaisha

Registration No: 2,111,385

Issued: November 4, 1997

Mark: Eco-Drive (Stylized)

Attorney's Ref.: 31389-131357

DECLARATION OF USE

The undersigned declares and states that he is an officer of the above registrant, or is authorized to execute this document on behalf of the registrant; that the said registrant owns the above-identified registration, as shown by the records in the Patent and Trademark Office; and that the mark shown therein is still in use in commerce on the following goods listed in the registration: **WATCHES**, as evidenced by the attached specimen showing the mark as currently used.

DECLARATION OF INCONTESTABILITY

The undersigned further declares that said mark shown in said registration has been in continuous use in commerce for at least five consecutive years subsequent to the date of said registration on the following goods recited in the registration: **WATCHES**, that said mark is still in use in such commerce; that there has been no final decision adverse to registrant's claim of ownership of said mark, to its right to register the same or maintain it on the register, and that there is no proceeding involving any of said rights pending and not disposed of either in the Patent and Trademark Office or in the Courts.

POWER OF ATTORNEY

All prior powers of attorney are hereby revoked and applicant hereby appoints as attorney Mark B. Harrison, Marcia Auberger and Andrew Price each a member of the Bar of the District of Columbia and/or Virginia and having his offices and post office address at P.O. Box 34385, Washington, D.C. 20043-9998, Telephone No. (202) 344-4000, Fax No. (202) 344-8300 to prosecute this application, to transact all business in the Patent and Trademark Office in connection therewith, and to receive all documents in connection with this registration.

APPOINTMENT OF DOMESTIC REPRESENTATIVE

All prior appointments of domestic representative are hereby revoked and the firm of VENABLE and Mark B. Harrison, Marcia A. Auburger, and Andrew Price, jointly and severally, whose post office address is 575 7th Street, N.W., Washington, D.C. 20004, Telephone (202) 344-4000, Telefax (202) 344-8300, are hereby designated registrant's representatives upon whom notices or process in proceedings affecting the mark may be served.

DESIGNATION OF CORRESPONDENCE ADDRESS

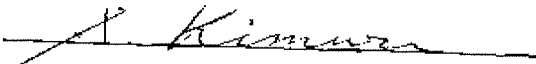
Send all notices, official letters, documents, communications and other correspondence concerning this application to: Mark B. Harrison, VENABLE, LLP, P.O. Box 34385, Washington, D.C. 20043.

DECLARATION

The undersigned declares and states that he is authorized to execute and sign this instrument on behalf of and for the said registrant; that all statements made herein of his own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of this document or the registration referred to therein.

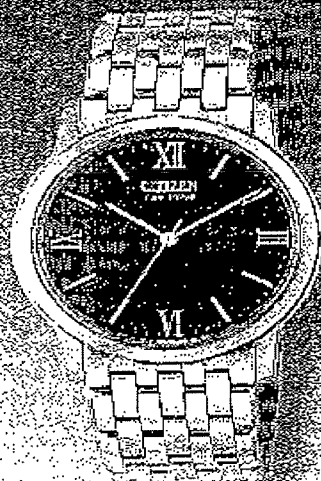
Citizen Tokei Kabushiki Kaisha

Date: October 27, 2003

By: 

Name: Satoshi Kimura

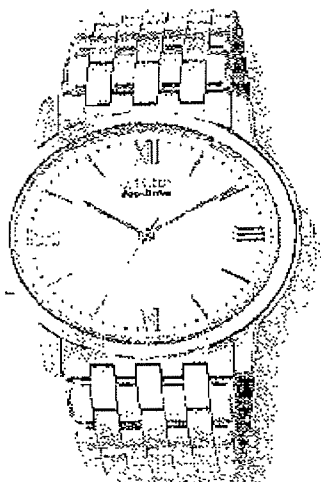
Title: General Manager



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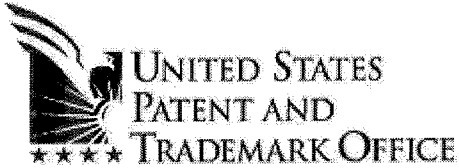


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Commissioner for Trademarks
2900 Crystal Drive
Arlington, VA 22202-3514
www.uspto.gov

REGISTRATION NO: 2111385 SERIAL NO: 75/111004 MAILING DATE: 05/04/2004
REGISTRATION DATE: 11/04/1997
MARK: ECO-DRIVE
REGISTRATION OWNER: Citizen Tokei Kabushiki Kaisha

CORRESPONDENCE ADDRESS:

MARK B. HARRISON
VENABLE
575 7TH ST, NW
WASHINGTON, DC 20004

NOTICE OF ACCEPTANCE

15 U.S.C. Sec. 1058(a)(1)

THE COMBINED AFFIDAVIT FILED FOR THE ABOVE-IDENTIFIED REGISTRATION MEETS THE REQUIREMENTS OF SECTION 8 OF THE TRADEMARK ACT, 15 U.S.C. Sec. 1058.

ACCORDINGLY, THE SECTION 8 AFFIDAVIT IS ACCEPTED.

NOTICE OF ACKNOWLEDGEMENT

15 U.S.C. Sec. 1065

THE AFFIDAVIT FILED FOR THE ABOVE-IDENTIFIED REGISTRATION MEETS THE REQUIREMENTS OF SECTION 15 OF THE TRADEMARK ACT, 15 U.S.C. Sec. 1065.

ACCORDINGLY, THE SECTION 15 AFFIDAVIT IS ACKNOWLEDGED.

THE REGISTRATION WILL REMAIN IN FORCE FOR CLASS(ES):
014.

GRAY, TERRITA E
PARALEGAL SPECIALIST
POST-REGISTRATION DIVISION
(703)308-9500

PLEASE SEE THE REVERSE SIDE OF THIS NOTICE FOR INFORMATION
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REQUIREMENTS FOR MAINTAINING A FEDERAL TRADEMARK REGISTRATION**I) SECTION 8: AFFIDAVIT OF CONTINUED USE**

The registration shall remain in force for 10 years, except that the registration shall be canceled for failure to file an Affidavit of Continued Use under Section 8 of the Trademark Act, 15 U.S.C. Sec. 1058, at the end of each successive 10-year period following the date of registration.

Failure to file the Section 8 Affidavit will result in the cancellation of the registration.

II) SECTION 9: APPLICATION FOR RENEWAL

The registration shall remain in force for 10 years, subject to the provisions of Section 8, except that the registration shall expire for failure to file an Application for Renewal under Section 9 of the Trademark Act, 15 U.S.C. Sec. 1059, at the end of each successive 10-year period following the date of registration.

Failure to file the Application for Renewal will result in the expiration of the registration.

NO FURTHER NOTICE OR REMINDER OF THESE REQUIREMENTS WILL BE SENT TO THE REGISTRANT BY THE PATENT AND TRADEMARK OFFICE. IT IS RECOMMENDED THAT THE REGISTRANT CONTACT THE PATENT AND TRADEMARK OFFICE APPROXIMATELY ONE YEAR BEFORE THE EXPIRATION OF THE TIME PERIODS SHOWN ABOVE TO DETERMINE APPROPRIATE REQUIREMENTS AND FEES.

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Combined Declaration of Use In Commerce & Application For Renewal of Registration of A Mark Under Sections 8 & 9

The table below presents the data as entered.

Input Field	Entered
REGISTRATION NUMBER	2111385
REGISTRATION DATE	11/04/1997
SERIAL NUMBER	75111004
MARK SECTION	
MARK	ECO-DRIVE (stylized and/or with design)
OWNER SECTION (no change)	
ATTORNEY SECTION (new)	
NAME	Ronald E. Shapiro
FIRM NAME	Miles & Stockbridge P.C.
INTERNAL ADDRESS	Suite 500
STREET	1751 Pinnacle Drive
CITY	McLean
STATE	Virginia
POSTAL CODE	22102-3833
COUNTRY	United States
PHONE	7036108694
FAX	7036108686
ATTORNEY DOCKET NUMBER	T3341-13953US01 (CPA5640)
DOMESTIC REPRESENTATIVE SECTION (new)	

NAME	Spencer & Frank
INTERNAL ADDRESS	Suite 300E
STREET	1100 New York Ave NW
CITY	Washington
STATE	District of Columbia
POSTAL CODE	20005-3955
COUNTRY	United States
GOODS AND/OR SERVICES SECTION	
INTERNATIONAL CLASS	014
USE ON ALL GOODS OR SERVICES OR EXCUSABLE NON-USE FOR ENTIRE CLASS	YES
SPECIMEN FILE NAME(S)	\\TICRS2\EXPORT14\751\110\75111004\xml1 S890002.JP G
SPECIMEN DESCRIPTION	A watch, bearing the mark on its face
PAYMENT SECTION	
NUMBER OF CLASSES	1
NUMBER OF CLASSES PAID	1
SUBTOTAL AMOUNT	500
TOTAL AMOUNT	500
SIGNATURE SECTION	
SIGNATURE	/Ronald E. Shapiro/
SIGNATORY'S NAME	Ronald E. Shapiro
SIGNATORY'S POSITION	Attorney of Record
DATE SIGNED	11/05/2007
PAYMENT METHOD	DA
FILING INFORMATION	
SUBMIT DATE	Mon Nov 05 15:22:08 EST 2007
TEAS STAMP	USPTO/S08N09-70.166.46.17 8-20071105152208693006-21 11385-4006d92f54b3d077553 aa348fa582e934a-DA-455-20 071105151754263178

PTO Form 1963 (Rev 5/2006)
OMB No. 0651-0055 (Exp 10/31/2008)

Combined Declaration of Use In Commerce & Application For Renewal of Registration of A Mark Under Sections 8 & 9

To the Commissioner for Trademarks:

REGISTRATION NUMBER: 2111385

REGISTRATION DATE: 11/04/1997

MARK: ECO-DRIVE (stylized and/or with design)

The owner, CITIZEN HOLDINGS CO., LTD., having an address of 1-12, 6-CHOME TANASHI-CHO, NISHI-TOKYO-SHI, TOKYO 188-8511, Japan is filing a Combined Declaration of Use In Commerce & Application For Renewal of Registration of A Mark Under Sections 8 & 9.

For International Class 014, the owner, or its related company, is using the mark in commerce on or in connection with all goods or services listed in the existing registration for this class; or, the owner is claiming excusable non-use for this entire class.

The owner is submitting one specimen showing the mark as used in commerce on or in connection with any item in this class, consisting of a(n) A watch, bearing the mark on its face.

Specimen File1

The registrant hereby appoints Spencer & Frank, Suite 300E, 1100 New York Ave NW, Washington, District of Columbia United States 20005-3955 as registrant's representative upon whom notice or process in the proceedings affecting the mark may be served.

A fee payment in the amount of \$500 will be submitted with the form, representing payment for 1 class(es), plus any additional grace period fee, if necessary.

Declaration

Section 8: Declaration of Use in Commerce

Unless the owner has specifically claimed excusable non-use, the owner, or its related company, is using the mark in commerce on or in connection with the goods and/or services identified above, as evidenced by the attached specimen(s) showing the mark as used in commerce.

Section 9: Application for Renewal

The registrant requests that the registration be renewed for the goods and/or services identified above.

The undersigned being hereby warned that willful false statements and the like are punishable by fine or imprisonment, or both, under 18 U.S.C. Section 1001, and that such willful false statements and the like may jeopardize the validity of this document, declares that he/she is properly authorized to execute this document on behalf of the Owner; and all statements made of his/her own knowledge are true and that all statements made on information and belief are believed to be true.

Signature: /Ronald E. Shapiro/ Date: 11/05/2007
Signatory's Name: Ronald E. Shapiro
Signatory's Position: Attorney of Record

Mailing Address:
Miles & Stockbridge P.C.
1751 Pinnacle Drive
McLean, Virginia 22102-3833

Serial Number: 75111004
Internet Transmission Date: Mon Nov 05 15:22:08 EST 2007
TEAS Stamp: USPTO/S08N09-70.166.46.178-2007110515220
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it never needs a battery

IT'S UNSTOPPABLE
Just like the people who wear it



Palidoro
20 Diamonds
Mother-of-Pearl Dial

2111385

ECO-DRIVE



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Document Description: **Notice-Acceptance-Renewal**
Mail / Create Date: **15-Nov-2007**



UNITED STATES PATENT AND TRADEMARK OFFICE

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www.uspto.gov

REGISTRATION NO: 2111385 SERIAL NO: 75/111004 MAILING DATE: 11/15/2007
REGISTRATION DATE: 11/04/1997
MARK: ECO-DRIVE
REGISTRATION OWNER: CITIZEN HOLDINGS CO., LTD.

CORRESPONDENCE ADDRESS:

RONALD E. SHAPIRO
MILES & STOCKBRIDGE PC
1751 PINNACLE DRIVE
SUITE 500
MCLEAN, VA 22102-3833

NOTICE OF ACCEPTANCE

15 U.S.C. Sec. 1058(a)(3)

THE COMBINED AFFIDAVIT AND RENEWAL APPLICATION FILED FOR THE ABOVE-IDENTIFIED REGISTRATION MEETS THE REQUIREMENTS OF SECTION 8 OF THE TRADEMARK ACT, 15 U.S.C. Sec. 1058.

ACCORDINGLY, THE SECTION 8 AFFIDAVIT IS ACCEPTED.

NOTICE OF RENEWAL

15 U.S.C. Sec. 1059(a)

THE COMBINED AFFIDAVIT AND RENEWAL APPLICATION FILED FOR THE ABOVE-IDENTIFIED REGISTRATION MEETS THE REQUIREMENTS OF SECTION 9 OF THE TRADEMARK ACT, 15 U.S.C. Sec. 1059.

ACCORDINGLY, THE REGISTRATION IS RENEWED.

THE REGISTRATION WILL REMAIN IN FORCE FOR CLASS(ES):
014.

RICE, GREGGORY A
PARALEGAL SPECIALIST
POST-REGISTRATION DIVISION
571-272-9500

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REQUIREMENTS FOR MAINTAINING A FEDERAL TRADEMARK REGISTRATION**I) SECTION 8: AFFIDAVIT OF CONTINUED USE**

The registration shall remain in force for 10 years, except that the registration shall be canceled for failure to file an Affidavit of Continued Use under Section 8 of the Trademark Act, 15 U.S.C. Sec. 1058, at the end of each successive 10-year period following the date of registration.

Failure to file the Section 8 Affidavit will result in the cancellation of the registration.

II) SECTION 9: APPLICATION FOR RENEWAL

The registration shall remain in force for 10 years, subject to the provisions of Section 8, except that the registration shall expire for failure to file an Application for Renewal under Section 9 of the Trademark Act, 15 U.S.C. Sec. 1059, at the end of each successive 10-year period following the date of registration.

Failure to file the Application for Renewal will result in the expiration of the registration.

NO FURTHER NOTICE OR REMINDER OF THESE REQUIREMENTS WILL BE SENT TO THE REGISTRANT BY THE PATENT AND TRADEMARK OFFICE. IT IS RECOMMENDED THAT THE REGISTRANT CONTACT THE PATENT AND TRADEMARK OFFICE APPROXIMATELY ONE YEAR BEFORE THE EXPIRATION OF THE TIME PERIODS SHOWN ABOVE TO DETERMINE APPROPRIATE REQUIREMENTS AND FEES.

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- **Questions about USPTO programs:** Please e-mail [USPTO Contact Center \(UCC\)](#).

NOTE: Within any e-mail, please include your telephone number so we can talk to you directly, if necessary. Also, include the relevant serial number or registration number, if existing.

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Typed Drawing

Word Mark	DE VILLE
Translations	The English translation of "De Ville" is "of the City".
Goods and Services	IC 014. US 027. G & S: Watches, Wrist Watches, Portfolio Watches, Pendant Watches, and Miniature Clocks; and Parts Thereof
Mark Drawing Code	(1) TYPED DRAWING
Serial Number	73418969
Filing Date	March 28, 1983
Current Filing Basis	44E
Original Filing Basis	44E
Published for Opposition	October 9, 1984
Registration Number	1309929
Registration Date	December 18, 1984
Owner	(REGISTRANT) Omega S.A. CORPORATION SWITZERLAND Jacob-Stämpfli Strasse 96 2502 Biel/Bienne SWITZERLAND
Assignment Recorded	ASSIGNMENT RECORDED
Type of Mark	TRADEMARK
Register	PRINCIPAL
Affidavit Text	SECT 15. SECT 8 (6-YR). SECTION 8(10-YR) 20041112.
Renewal	1ST RENEWAL 20041112
Live/Dead Indicator	LIVE

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ATTORNEY DOCKET NO.:27600

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Mark : DE VILLE
Registrant : Omega S.A. (Omega AG) (Omega Ltd.)
Address : Jakob-Stämpfli-Strasse 96
2502 Biel/Bienne, Switzerland
Reg. No. : 1,309,929
Dated : December 18, 1984

Assistant Commissioner for Trademarks
Box POST REG - FEE
2900 Crystal Drive
Arlington, Virginia 22202

COMBINED SECTION 8 AND 9 DECLARATION

10/08/2004 TMCCANTS 00000028 1309929

01 FC:6205
02 FC:6201

Sir:

100.00 OP
400.00 OP

The above-identified registrant requests that Registration No. 1,309,929, granted to Omega S.A. (Omega AG) (Omega Ltd.) on December 18, 1984 which it now owns as shown in the records of the Patent and Trademark Office, be renewed in accordance with the provisions of Section 9 of the Trademark Act of July 5, 1946.

The undersigned hereby appoints JESS M. COLLEN, a member of the New York Bar with an address at COLLEN *IP* INTELLECTUAL PROPERTY LAW, P.C., THE HOLYOKE-MANHATTAN BUILDING, 80 SOUTH HIGHLAND AVENUE, TOWN OF OSSINING, WESTCHESTER COUNTY, NEW YORK 10562 Telephone No. (914) 941-5668, its attorney to file this declaration, with full power of substitution and revocation and to transact all business in the Patent and Trademark Office connected therewith, simultaneously revoking all previous powers of attorney.

Collen *IP* Intellectual Property Law, P.C., whose postal address is The Holyoke-Manhattan Building, 80 South Highland Avenue, Town of Ossining, Westchester County, New York 10562 is hereby designated Declarant's representative upon whom notices or process in proceedings affecting the mark may be served.

Mr. Hanspeter Rentsch/Ms. Josiane Citiso declares that he/she is at present the Member of the Board of Directors/Authorized Signatory of Omega S.A. (Omega AG) (Omega Ltd.), the registrant, and is authorized to sign this application and renewal on its behalf;

THAT registrant owns Registration No. 1,309,929, that the mark shown therein is in

10/08/2004 TMCCANTS 00000028 1309929

01 FC:6205

400.00 OP

TSM



09-27-2004

U.S. Patent & TMO/TM Mail Rpt Dt. #74

use in Commerce on each of the goods recited in the registration, with the attached specimen showing the mark as currently used;

THAT all statements made herein of his own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment or both under section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the renewal application or document or any registration resulting therefrom.

BY: Mr. Hanspeter Rentsch/ Ms. Josiane Citiso ✓

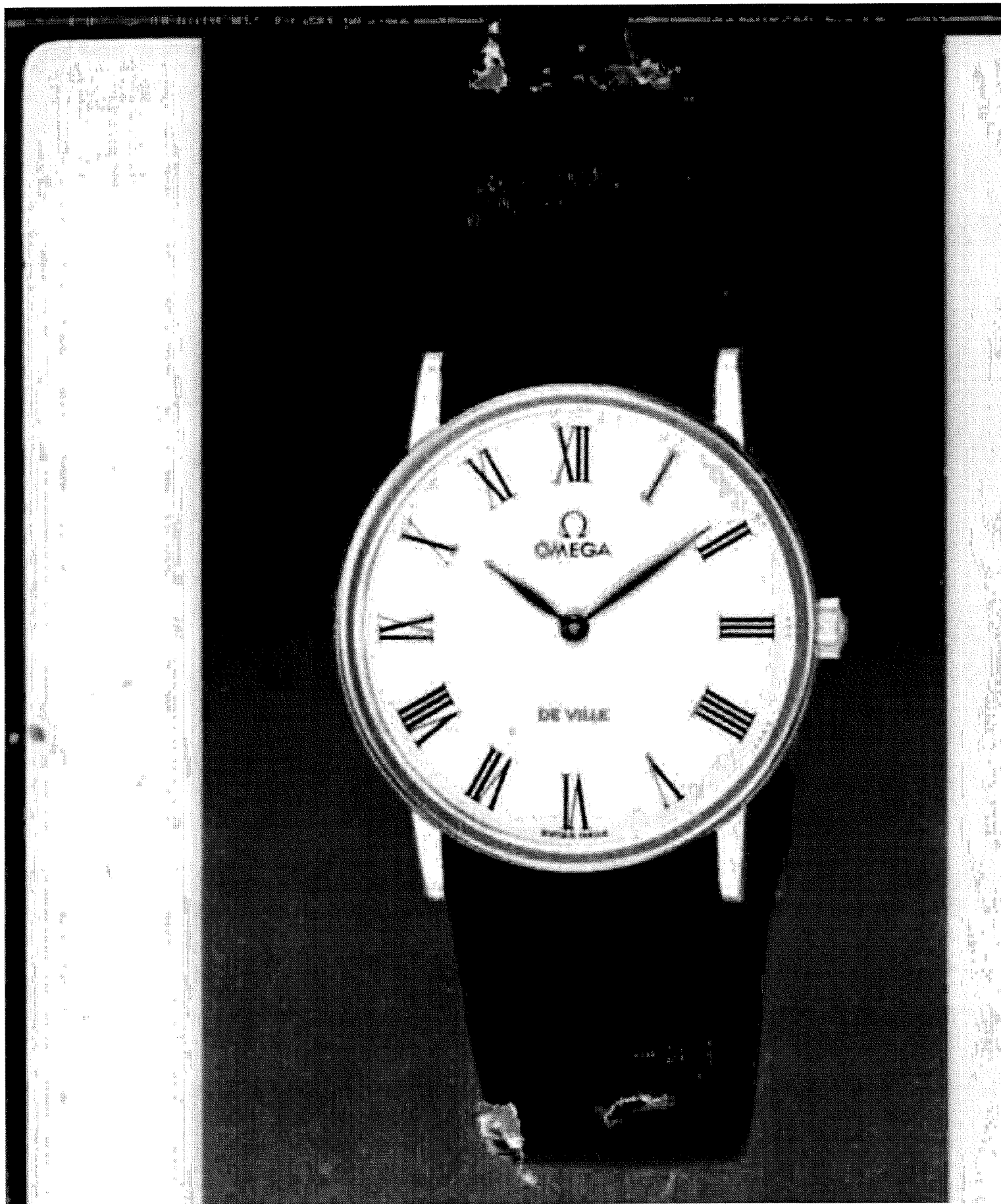
(Name) *Hanspeter Rentsch*
(Signature)

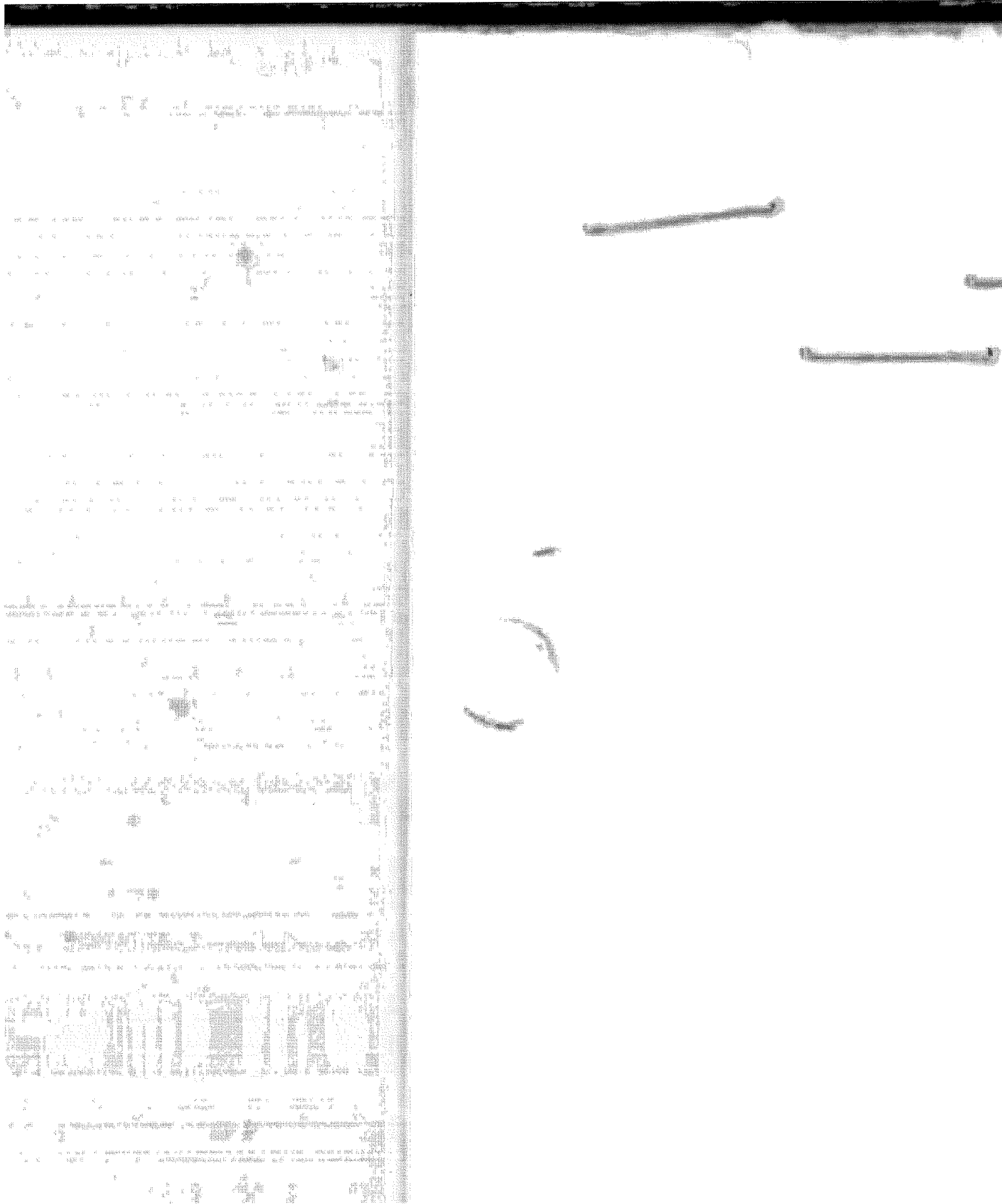
Member of the Board of Directors/Authorized Signatory
(Title)

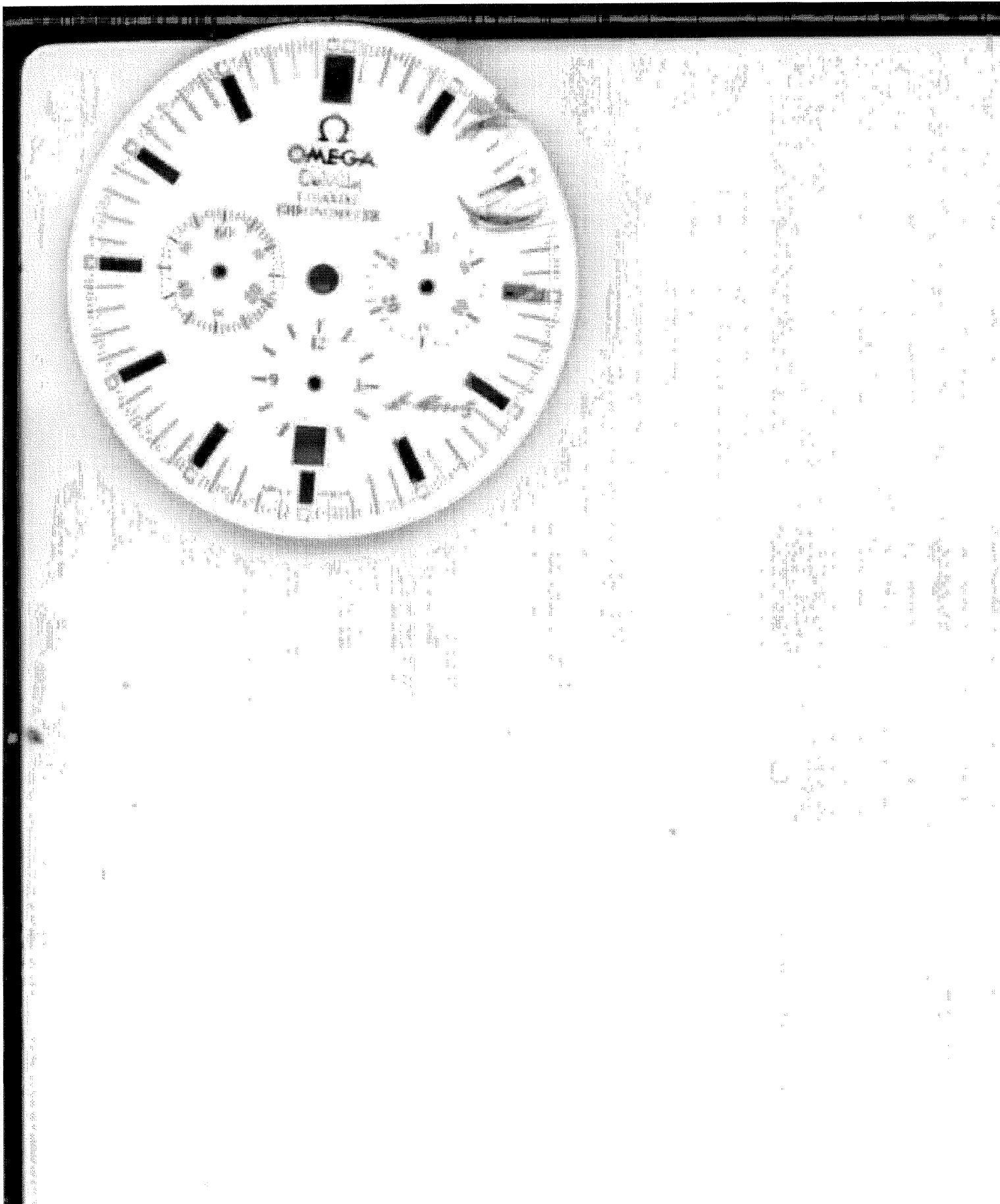
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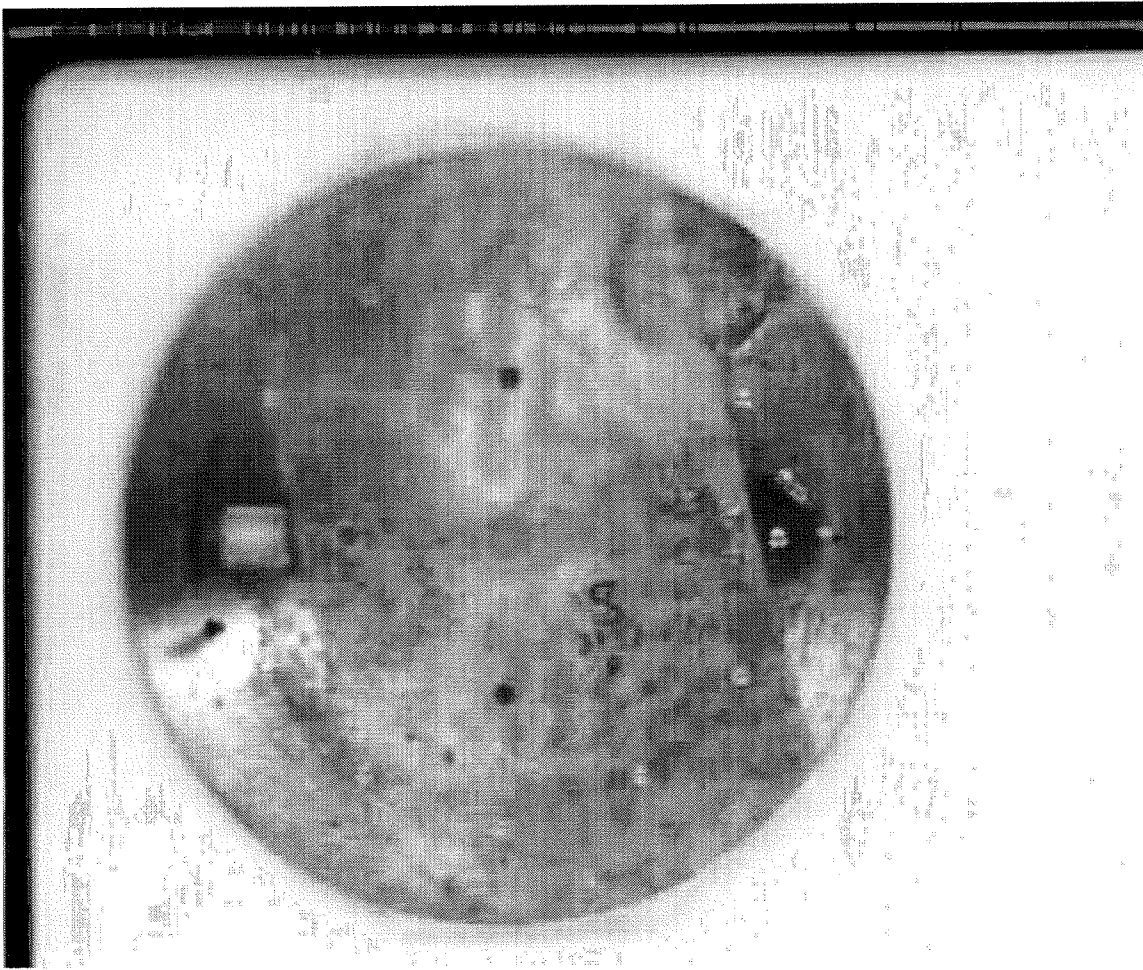
R:\2\27\27600.DE VILLE Registration Renewal.8-31-04.DOC

THE HOLYOKE-MANHATTAN BUILDING
80 SOUTH HIGHLAND AVENUE
TOWN OF OSSINING
WESTCHESTER COUNTY, NEW YORK 10562









Collen IP

Intellectual Property Law, P.C.
The Holyoke-Manhattan Building
80 South Highland Avenue
Town of Ossining
Westchester County, New York 10562
TEL: (914) 941-5668
FAX: (914) 941-6091

Assistant Commissioner for Trademarks
Box POST REG - FEE
2900 Crystal Drive
Arlington, Virginia 22202

RE: U. S. Trademark Registration
Mark : DE VILLE
Registrant : Omega S.A. (Omega AG) (Omega Ltd.)
Address : Jakob-Stämpfli-Strasse 96
2502 Biel/Bienne, Switzerland
Reg. No. : 1,309,929
Dated : December 18, 1984
Our Ref. : T-27600

We enclose herewith a trademark renewal application in the above captioned matter
comprising the following:

- (X) 1. An Application for Renewal;
- (X) 2. Authorization Charge for the amount of \$500.00, representing the \$500.00
Government filing fee per class;
- (X) 3. One specimen of use per class.

CHANGE OF CORRESPONDENCE ADDRESS

Please note for the file that the correspondence address of the Registrant's representative has changed,
and is properly listed as follows:

COLLEN IP

Intellectual Property Law, P.C.
The Holyoke-Manhattan Building
80 South Highland Avenue
Town of Ossining
Westchester County, New York 10562
Telephone Nos. (914) 941-5668 (UNCHANGED)

Please return the attached postcard date-stamped to acknowledge receipt of this matter.

Respectfully submitted
for Registrant,

By: 

Jane F. Collen

Telephone: 914-941-5668

JFC/MC

Enclosures: - As stated above

Dated: September 24, 2004

COLLEN *IP*

INTELLECTUAL PROPERTY LAW, P.C.

THE HOLYOKE-MANHATTAN BUILDING

80 SOUTH HIGHLAND AVENUE

TOWN OF OSSINING

WESTCHESTER COUNTY, NEW YORK 10562

SHOULD ANY OTHER FEE BE REQUIRED, THE PATENT AND TRADEMARK OFFICE IS HEREBY REQUESTED TO CHARGE SUCH FEE TO OUR DEPOSIT ACCOUNT 03-2465.

I HEREBY CERTIFY THAT THIS CORRESPONDENCE IS BEING DEPOSITED WITH THE UNITED STATES POSTAL SERVICE AS FIRST CLASS MAIL, POSTAGE PREPAID IN AN ENVELOPE ADDRESSED TO: ASSISTANT COMMISSIONER FOR TRADEMARKS, 2900 CRYSTAL DRIVE, ARLINGTON, VIRGINIA 22202.

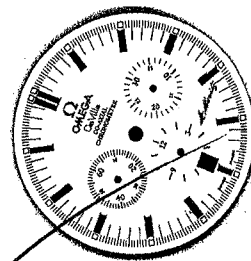
Collen *IP* Intellectual Property Law, P.C.

By: 

Date: September 24, 2004

R:\2\27\27600transmittalletter.DOC

RE: U. S. Trademark Registration
Mark : DE VILLE
Registrant : Omega S.A. (Omega AG) (Omega Ltd.)
Address : Jakob-Stämpfli-Strasse 96
2502 Biel/Bienne, Switzerland
Reg. No. : 1,309,929
Dated : December 18, 1984
Our Ref. : T-27600



Incoming Correspondence Routing Sheet

Work Location: Post Registration (PRU)

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Reg. No.: 1309929



Serial No: 73418969



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Doc. Type: Combined Section 8 and 9



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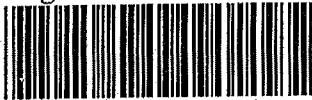


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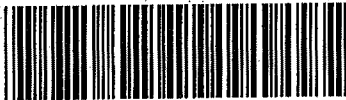
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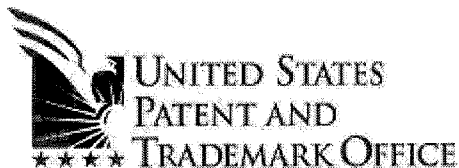
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Document Description: **Notice-Acceptance-Renewal**

Mail / Create Date: **12-Nov-2004**



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REGISTRATION NO: 1309929 SERIAL NO: 73/418969 MAILING DATE: 11/12/2004
REGISTRATION DATE: 12/18/1984
MARK: DE VILLE
REGISTRATION OWNER: Omega S.A.

CORRESPONDENCE ADDRESS:

JANE F. COLLEN
COLLEN IP, INTELLECTUAL PROPERTY LAW, PC
THE HOLYOKE-MANHATTAN BUILDING
80 SOUTH HIGHLAND AVE, TOWN OF OSSINING
WESTCHESTER COUNTY, NY 10562

NOTICE OF ACCEPTANCE

15 U.S.C. Sec. 1058(a)(3)

THE COMBINED AFFIDAVIT AND RENEWAL APPLICATION FILED FOR THE ABOVE-IDENTIFIED REGISTRATION MEETS THE REQUIREMENTS OF SECTION 8 OF THE TRADEMARK ACT, 15 U.S.C. Sec. 1058.

ACCORDINGLY, THE SECTION 8 AFFIDAVIT IS ACCEPTED.

NOTICE OF RENEWAL

15 U.S.C. Sec. 1059(a)

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ACCORDINGLY, THE REGISTRATION IS RENEWED.

THE REGISTRATION WILL REMAIN IN FORCE FOR CLASS(ES):
014.

THOMPSON, LISA LORRIN
PARALEGAL SPECIALIST
POST-REGISTRATION DIVISION
(703)308-9500

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REQUIREMENTS FOR MAINTAINING A FEDERAL TRADEMARK REGISTRATION**I) SECTION 8: AFFIDAVIT OF CONTINUED USE**

The registration shall remain in force for 10 years, except that the registration shall be canceled for failure to file an Affidavit of Continued Use under Section 8 of the Trademark Act, 15 U.S.C. Sec. 1058, at the end of each successive 10-year period following the date of registration.

Failure to file the Section 8 Affidavit will result in the cancellation of the registration.

II) SECTION 9: APPLICATION FOR RENEWAL

The registration shall remain in force for 10 years, subject to the provisions of Section 8, except that the registration shall expire for failure to file an Application for Renewal under Section 9 of the Trademark Act, 15 U.S.C. Sec. 1059, at the end of each successive 10-year period following the date of registration.

Failure to file the Application for Renewal will result in the expiration of the registration.

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Typed Drawing

Word Mark	SPORTURA
Goods and Services	IC 014. US 002 027 028 050. G & S: watches, [clocks,] stop watches, cases and parts thereof. FIRST USE: 19980709. FIRST USE IN COMMERCE: 19980709
Mark Drawing Code	(1) TYPED DRAWING
Serial Number	75251099
Filing Date	March 4, 1997
Current Filing Basis	1A
Original Filing Basis	1B
Published for Opposition	March 10, 1998
Registration Number	2209648
Registration Date	December 8, 1998
Owner	(REGISTRANT) SEIKO KABUSHIKI KAISHA TA SEIKO CORPORATION CORPORATION JAPAN 5-11, Ginza, 4-Chome Chuo-Ku, Tokyo JAPAN (LAST LISTED OWNER) SEIKO HOLDINGS KABUSHIKI KAISHA TA SEIKO HOLDINGS CORPORATION CORPORATION JAPAN 5-11 GINZA 4-CHOME, CHUO-KU TOKYO JAPAN 00
Assignment Recorded	ASSIGNMENT RECORDED
Attorney of Record	RONALD E. SHAPIRO
Type of Mark	TRADEMARK
Register	PRINCIPAL
Affidavit Text	SECT 15. SECT 8 (6-YR).
Live/Dead Indicator	LIVE

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#13

CPA 3176

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Registrant: SEIKO KABUSHIKI KAISHA also trading as
SEIKO CORPORATION ✓
Mark: SPORTURA ✓
Registration No.: 2209648 ✓
Registration Date: 08 December 1998 ✓
International Class(es): 14 ✓

**COMBINED DECLARATION UNDER SECTIONS
8 AND 15 OF THE TRADEMARK ACT OF JULY 5, 1946**

Box POST REG FEE
Honorable Commissioner for Trademarks
2900 Crystal Drive
Arlington, Virginia 22202-3513

Sir/Madam:

The mark shown in the above-identified registration is owned by the above-identified registrant and has been in continuous use in commerce for five consecutive years from the date of registration to the present on or in connection with all of the goods and/or services identified in the registration, unless otherwise indicated below.

11/10/2004 TRCCANTS 00000151 2209648

01 FC:6205 100.00 DP
02 FC:6208 200.00 DP

DO NOT COMPLETE THIS SECTION UNLESS THERE ARE GOODS/SERVICES RECITED IN THE REGISTRATION ON OR IN CONNECTION WITH WHICH:

a) the mark *is currently in use* in commerce that may be lawfully regulated by the U.S. Congress (e.g., interstate commerce in the United States or commerce between the United States and a foreign country); **AND**

b) such use has been for *fewer than five consecutive years*.

The following is a list of the goods and/or services recited in the registration on or in connection with which the mark is currently in use in commerce, as specified above, and with respect to which such use has been for fewer than five consecutive years:

DO NOT COMPLETE THIS SECTION UNLESS THERE ARE GOODS/SERVICES RECITED IN THE REGISTRATION ON OR IN CONNECTION WITH WHICH the mark is not currently in use in commerce that may be lawfully regulated by the U.S. Congress (e.g., interstate commerce in the United States or commerce between the United States and a foreign country).

The following is a list of the goods and/or services recited in the registration with respect to which the mark is not currently in use in commerce that may be lawfully regulated by the U.S. Congress: clocks ✓

A specimen showing the mark as currently used for each class of goods and/or services and the required fees accompany this declaration.

There has been no final decision adverse to the registrant's claim of ownership of the mark, or the registrant's right to register the mark or to keep it on the register; and there is no proceeding involving any of these rights pending and not disposed of either in the Patent and Trademark Office or in the courts.

POWER OF ATTORNEY

The registrant appoints Ronald E. Shapiro, Cory M. Amron, and Jean-Marc Brun, all members of the District of Columbia Bar, of the law firm of Vorys, Sater, Seymour and Pease LLP, 1828 L Street, N.W., Eleventh Floor, Washington, D.C. 20036-5109, to file this document, with full power of substitution and revocation, and to transact all business concerning this document in the Patent and Trademark Office. All correspondence should be addressed to Ronald E. Shapiro, Vorys, Sater, Seymour and Pease LLP, 1828 L Street, N.W., Eleventh Floor, Washington, D.C. 20036-5109.

DECLARATION

The undersigned, being warned that willful false statements and the like are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements and the like may jeopardize the validity of this document and the registration to which it refers, declares that he/she is properly authorized to execute this document on behalf of the registrant, that all statements made

of his/her own knowledge are true, and that all statements made on information and belief are believed to be true.

SEIKO KABUSHIKI KAISHA also trading as
SEIKO CORPORATION

Date: 19th May, 2004

By: *Y. Nakamura* ✓

Name: Yoshinobu Nakamura
Title: Director

CPA 3176

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Registrant: SEIKO KABUSHIKI KAISHA also trading as
SEIKO CORPORATION

Mark: SPORTURA

Registration No.: 2209648

Registration Date: 08 December 1998

International Class(es): 14

DESIGNATION OF DOMESTIC REPRESENTATIVE

Honorable Commissioner for Trademarks
2900 Crystal Drive
Arlington, Virginia 22202-3513

Sir/Madam:

Unless otherwise indicated below, the above-identified registrant designates Vorys, Sater, Seymour and Pease LLP, 1828 L Street, N.W., Eleventh Floor, Washington, D.C. 20036-5109 as its representative on whom notices or process in proceedings affecting the above mark may be served.

 X

To designate a different representative, check here and provide the representative's name and address below:

STROOCK & STROOCK & LAVAN LLP
180 MAIDEN LN
NEW YORK NY 10038 - 4982
UNITED STATES

SEIKO KABUSHIKI KAISHA also trading as
SEIKO CORPORATION

Date: 19th May, 2004

By: Y. Nakamura

Name: Yoshinobu Nakamura
Title: Director

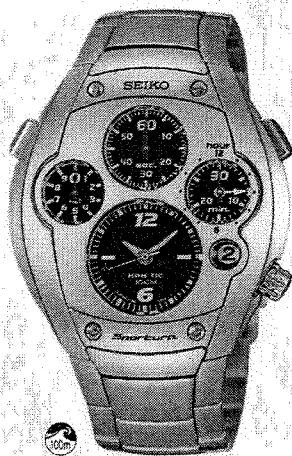
**KINETIC[®]
CHRONOGRAPH**

- Hour, minute and second hands
- Stopwatch hour, minute, second and $\frac{1}{10}$ second hands
- Stopwatch measures up to 12 hours, 6 minutes and 12.2 seconds in $\frac{1}{10}$ second increments
- Energy depletion forewarning function
- Overcharge prevention function
- Duration of full charge approximately 1 month if the stopwatch is used less than 3 hours per day



SLQ009 \$2,595

Titanium



SLQ015 \$2,595



SLQ007 \$2,495

**ALARM CHRONOGRAPH**

- Hour, minute and small second hands
- Alarm can be set on a 12-hour basis with two small hands
- Chronograph can measure up to 60 minutes in $\frac{1}{5}$ seconds
- Alarm hands can indicate the time in a different time zone



SNA003 \$525

Titanium
TiCN plating

SNA201 \$450

TiCN plating



Registrant: *Seiko KK +1a Seiko Corporation*
Mark: *SPORTURA*
Registration No.: *2209,648*
Registration Date: *December 8, 1998*

Evidence for Int'l Class:

Brian R. Anderson
Direct Dial: (202) 467-8842
Facsimile: (202) 533-9038
E-Mail -- branderson@vssp.com

14

ITS



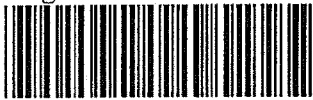
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Word Mark: SPORTURA

Reg. No.: 2209648



Serial No: 75251099



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Doc. Type: Combined 8 and 15



Examiner: 74303 - ROBINSON, ELLIOTT

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November 4, 2004

Honorable Commissioner for Trademarks
P.O. Box 1451
Alexandria, Virginia 22313-1451

Our Ref: CPA3176

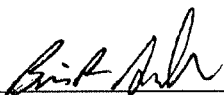
Dear Sir/Madam:

We enclose the following on behalf of Seiko Kabushiki Kaisha T/A Seiko Corporation:

- a) Combined Declaration Under Sections 8 & 15 for Registration No. 2,209,648 of December 8, 1998;
- b) Designation of Domestic Representative;
- c) one specimen showing the mark as currently used;
- d) a check for \$300 in payment of the required fee.

The Commissioner is authorized to charge any additional fees that may be required by this paper to Deposit Account No. 22-0585.

Respectfully submitted,

By: 
Brian R. Anderson
Trademark Assistant

BRA:kmn
Attachments



11-04-2004

U.S. Patent & TMO/TM Mail Rpt Dt. #74

Document Description: **Notice of Acceptance Acknowledgement**

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REGISTRATION NO: 2209648 SERIAL NO: 75/251099 MAILING DATE: 12/20/2004
REGISTRATION DATE: 12/08/1998
MARK: SPORTURA
REGISTRATION OWNER: SEIKO KABUSHIKI KAISHA

CORRESPONDENCE ADDRESS:

RONALD E. SHAPIRO
VORYS, SATERY, SEYMOUR AND PEASE LLP
1828 L STREET, N.W., 11TH FLOOR
WASHINGTON, DC 20036-5109

NOTICE OF ACCEPTANCE

15 U.S.C. Sec. 1058(a)(1)

THE COMBINED AFFIDAVIT FILED FOR THE ABOVE-IDENTIFIED REGISTRATION MEETS THE REQUIREMENTS OF SECTION 8 OF THE TRADEMARK ACT, 15 U.S.C. Sec. 1058.

ACCORDINGLY, THE SECTION 8 AFFIDAVIT IS ACCEPTED.

NOTICE OF ACKNOWLEDGEMENT

15 U.S.C. Sec. 1065

THE AFFIDAVIT FILED FOR THE ABOVE-IDENTIFIED REGISTRATION MEETS THE REQUIREMENTS OF SECTION 15 OF THE TRADEMARK ACT, 15 U.S.C. Sec. 1065.

ACCORDINGLY, THE SECTION 15 AFFIDAVIT IS ACKNOWLEDGED.

THE REGISTRATION WILL REMAIN IN FORCE FOR CLASS(ES):
014.

AUSTIN, DANA DIONNE
PARALEGAL SPECIALIST
POST-REGISTRATION DIVISION
(703)308-9500

PLEASE SEE THE REVERSE SIDE OF THIS NOTICE FOR INFORMATION
CONCERNING REQUIREMENTS FOR MAINTAINING THIS REGISTRATION
ORIGINAL

REQUIREMENTS FOR MAINTAINING A FEDERAL TRADEMARK REGISTRATION**I) SECTION 8: AFFIDAVIT OF CONTINUED USE**

The registration shall remain in force for 10 years, except that the registration shall be canceled for failure to file an Affidavit of Continued Use under Section 8 of the Trademark Act, 15 U.S.C. Sec. 1058, at the end of each successive 10-year period following the date of registration.

Failure to file the Section 8 Affidavit will result in the cancellation of the registration.

II) SECTION 9: APPLICATION FOR RENEWAL

The registration shall remain in force for 10 years, subject to the provisions of Section 8, except that the registration shall expire for failure to file an Application for Renewal under Section 9 of the Trademark Act, 15 U.S.C. Sec. 1059, at the end of each successive 10-year period following the date of registration.

Failure to file the Application for Renewal will result in the expiration of the registration.

NO FURTHER NOTICE OR REMINDER OF THESE REQUIREMENTS WILL BE SENT TO THE REGISTRANT BY THE PATENT AND TRADEMARK OFFICE. IT IS RECOMMENDED THAT THE REGISTRANT CONTACT THE PATENT AND TRADEMARK OFFICE APPROXIMATELY ONE YEAR BEFORE THE EXPIRATION OF THE TIME PERIODS SHOWN ABOVE TO DETERMINE APPROPRIATE REQUIREMENTS AND FEES.

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NOTE: Within any e-mail, please include your telephone number so we can talk to you directly, if necessary. Also, include the relevant serial number or registration number, if existing.

EXHIBIT Y

During examination, an examining attorney also has the discretion to request additional materials, under 37 C.F.R. §2.61(b), if necessary for proper examination of the mark. **TMEP §814.** For example, if the mark is a configuration of the goods or of the container for the goods, the examining attorney may require one actual product or container. Or the examining attorney might require a complete copy of a publication in order to determine whether a mark is merely descriptive of the goods. See **TMEP §904.02(c)(iii)** regarding marks used on publications.

In specific cases, such as when an applicant submits additional materials in response to a requirement made by the examining attorney, or where the applicant submits exhibits during an interview, and the materials do not meet the size parameters identified above, the Office may create facsimiles of these materials to be entered into the record. However, the examining attorney should encourage the applicant to submit a photograph of the specimen(s) or evidence for the record.

904.02(c)(ii) Specimens for Marks Comprising Color

If color is a feature of the mark, or if the mark consists solely of color, the specimen must show use of the color. 37 C.F.R. §2.51; **TMEP §807.12.** If the applicant submits a specimen that is not in color or not in the appropriate color, the examining attorney will require the applicant to file a substitute specimen that shows use of the appropriate color(s). See **TMEP §904.05** regarding substitute specimens.

See *also* **TMEP §1202.05(f)** regarding specimens showing use of marks that consist *solely* of color.

904.02(c)(iii) Specimens for Marks Used on Publications

An application for registration of a mark for publications is treated the same as any other application with respect to specimen requirements. The Office does not require a complete copy of the publication or a title page in every case. However, the examining attorney may require a copy of the publication under 37 C.F.R. §2.61(b) if he or she believes it is necessary for proper examination. For example, a copy of the publication might be necessary to determine whether a mark is merely descriptive of the goods.

904.03 Material Appropriate as Specimens for Trademarks

For a trademark application under §1(a) of the Trademark Act or an amendment to allege use or statement of use in an application under §1(b) of the Act, the specimen must show the mark as used on or in connection with the goods in commerce. A trademark specimen should be a label, tag, or container for the goods, or a display associated with the goods. 37 C.F.R. §2.56(b)(1). A photocopy or other reproduction of a specimen of the mark as actually used on or in connection with the goods is acceptable. 37 C.F.R. §2.56(c).

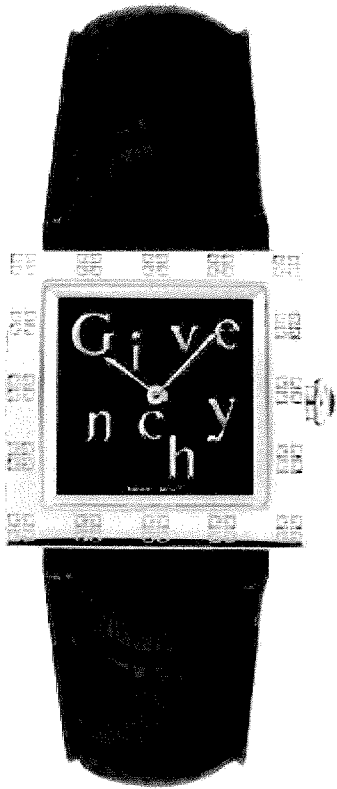
See **TMEP §§1301.04 et seq.** regarding service mark specimens, **TMEP §1304.09(c)** regarding collective membership mark specimens, **TMEP §1303.02(b)** regarding collective mark specimens, and **TMEP §1306.06(c)** regarding certification mark specimens.

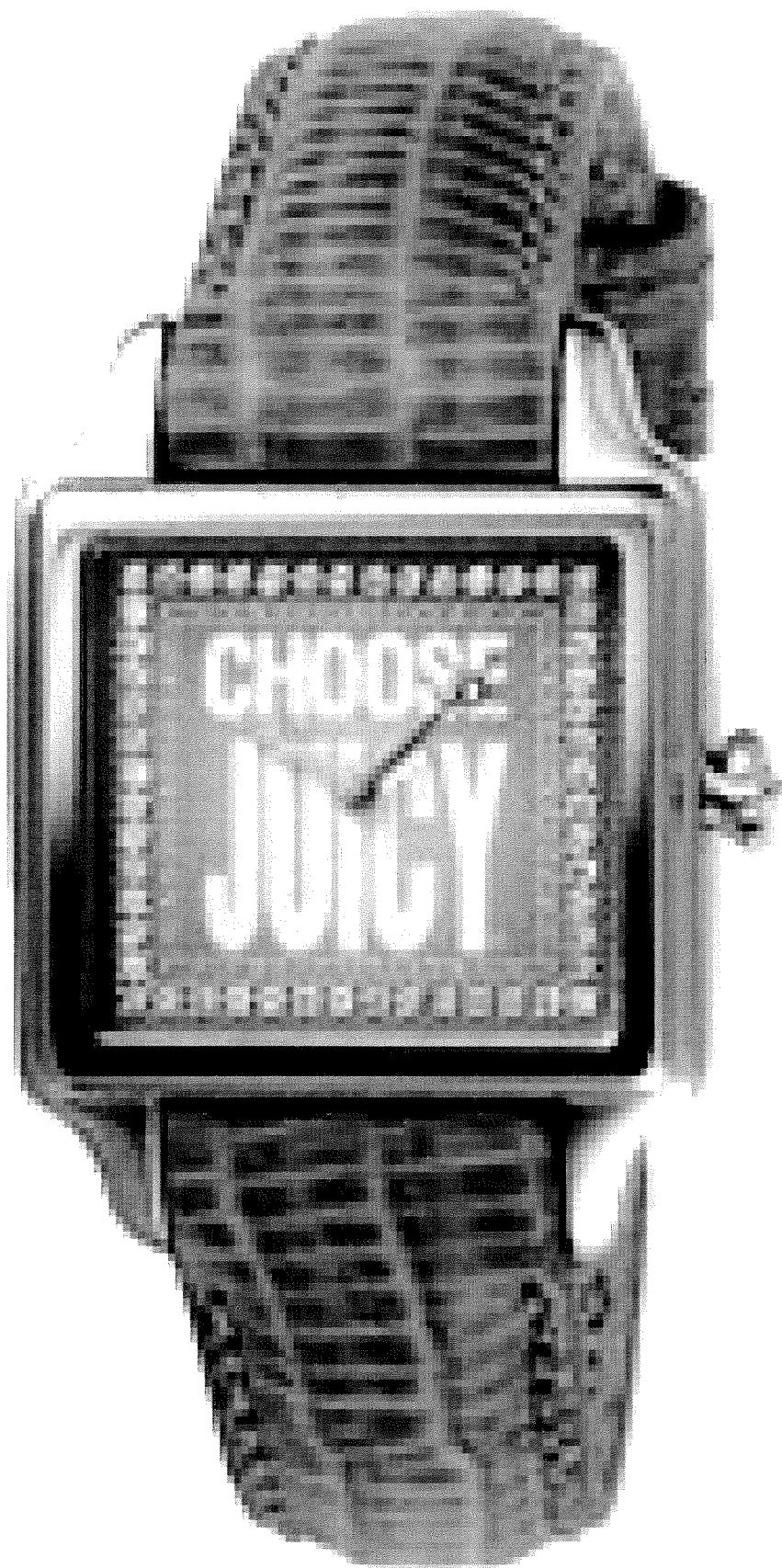
904.03(a) Labels and Tags

In most cases, where the trademark is applied to the goods or the containers for the goods by means of labels, a label is an acceptable specimen.

Shipping or mailing labels may be accepted if they are affixed to the goods or to the containers for the goods and if proper trademark usage is shown. *Electronic Communications, Inc. v. Electronic Components for Industry Co.*, 443 F.2d 487, 170 USPQ 118 (8th Cir. 1971), *cert. denied* 404 U.S. 833 (1971); *In re A.S. Beck Shoe Corp.*, 161 USPQ 168 (TTAB 1969). They are not acceptable if the mark

EXHIBIT Z









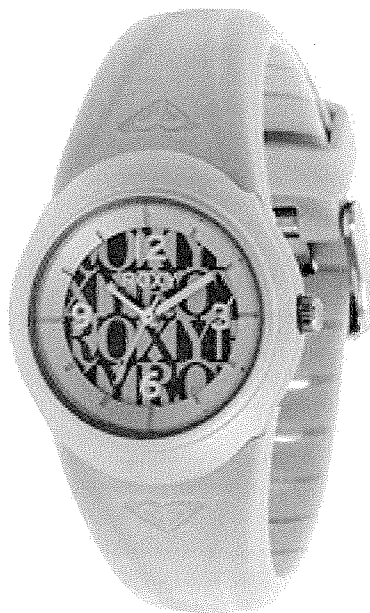


EXHIBIT AA

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Now Age Interview Adam Rothenhaus Making of The Now Watch

Interview Primer

Sometime in December, I was in Boca Raton taking solace in the comfort of my parent's home as I recovered from a bizarre health (I should say, unhealth) situation. While there, I received an email from this guy named Adam Rothenhaus who happened upon my website while searching for "now" references in Google. He mentioned that he created this item called "The Now Watch" and thought there might be some synergy between us. I checked out his watch, and liked it, and the spirit behind it. So I emailed Adam and asked him if he wanted to talk about it for Now Age Press readers.



Craig Gordon

So, Adam, what inspired your to create The Now Watch?

I guess the simplest way to say it is that I was inspired by the experience of living in the present moment itself. Experiencing what it really meant to be in The Now made me want to live there as often as possible. But usually I was somewhere else in my mind... probably dreaming about the future. So I wanted to create a reminder for myself to help me live in The Now and realized that the perfect place for that reminder was where the eternal collides with the time of day... right on the face of a clock or a watch. Thus the concept for The Now Watch was created, at least in my mind. And that's where it stayed for a while.

How did you arrive at the notion of "living in the present moment"? While it's a bit cliché as a phrase of new age rhetoric, like most new age slogans, it holds a lot of weight. I'm curious about your path to the platitude.

I'd say my arrival began in earnest while I was in an art gallery in New York City back in 1996 when I read the words "the time is now" above the entry to the exhibit. It just resonated... I didn't fully get it at that moment, but I did on an intellectual level. It was at time in my life of rapid growth... right after I finished doing all the things I was supposed to do and started to really be true to myself. Soon after I began driving around America... alone.

I had a stretch of several awesome days in LA, particularly on Venice Beach, watching the sunset, where that intellectual understanding deepened. There was a vivid moment on the beach where I looked around, surrounded by exquisite beauty and I said, "I'm in a place where there is nothing that isn't happening." I'm still not sure exactly what I meant. It was for me a mystical moment. One that in retrospect

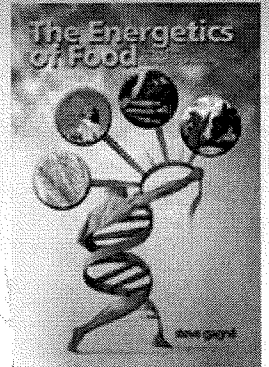
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was when I arrived in the present moment... fully arrived. I don't think I thought of it as the present moment then, but that's what it was, and it became a central part who I would become.

Can you describe the process that turned your moment of self-realization into The Now Watch? In other words, did the watch directly follow your spiritual awakening?



In short... I'd have to say no. The watch actually began to physically materialize more like ten years after that moment on Venice Beach I described.

If I checked my journals I'd probably find that the idea to place the word "Now" on the face of a watch or clock came to me sometime in 2001. I do recall the night fairly clearly. I recall making some sketches and doing some online research about how to make watches and clocks. I can see myself at my desk that night. But like so many ideas... the initial idea for The Now Watch came and then went to rest in the back of my mind

Then around November of 2005 a colleague of mine at the law firm I was working with was encouraging me to read *Island* by Aldous Huxley because one of the messages is about living in the present moment. So I started asking him, "What time is it," as I passed his office. He'd say something like 6:30 but I'd remind it was also "Now". I continued to do so until he remembered that first and foremost... it is Now. I guess I liked conveying the message and soon the idea for The Now Watch was back in bloom. I looked into the intellectual property considerations. I told my graphic designer friend about the idea. He loved it and soon enough designed what would soon become the face of the watch. I had some key pieces in place. Next I worked up a budget and step by step we produced the first of what we hope to be many timepieces that help bring more presence to people's lives.

How complicated was the design and production process for the Now Watch?

Not very. I like to think complicated and The Now Watch are on opposite ends of a spectrum. I mean the idea is just so simple and that's the beauty of it. Our fundamental value is simplicity. I try to keep everything about The Now Watch simple and that includes the design and overall look of the watch. My friend Rick, the graphic designer, agreed and he came up with what we feel is a simple face design where the NOW just pops out at you. We'd probably have to ask Rick about what he thinks about the process as well to get a more complete answer, but I'd have to say there hasn't been anything particularly complicated on the design front. Fortunately, with Rick on The Now Watch team, the design process has been simplified tremendously for me.

It was a little more challenging from a production point of view. I didn't have a friend who was in the business of making watches but I figured there were plenty of companies out there that could produce what I envisioned. So once we had the design all set I started looking for a

place to actually manufacture the watches. I searched hard. It wasn't easy. Google helped... a lot. There were a fair amount of options but the tricky part was finding the right people in the right company to make our original Now Watches. It took a lot of effort... a whole lot, but thanks to many helpful people along the way, it really wasn't a complicated process.

That's not to say there haven't been and won't continue to be obstacles. That's just part of the deal with a venture like this. There have been plenty of opportunities for me to give up but I didn't. I have a lot of faith in the concept and I believe it is a product whose time has come. If early reaction is any indication... I've learned that people really dig it, on many different levels, and that makes the overall process of making The Now Watch available in the marketplace much more enjoyable.

To order your Now Watch, visit our online store:
www.NowAgeVillage.com

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Typed Drawing

Word Mark	OYSTER
Goods and Services	IC 014. US 027. G & S: WATCHES, [MOVEMENTS, CASES,] DIALS [, AND OTHER PARTS OF WATCHES]. FIRST USE: 19260700. FIRST USE IN COMMERCE: 19260700
Mark Drawing Code	(1) TYPED DRAWING
Serial Number	71255783
Filing Date	October 7, 1927
Current Filing Basis	1A;44E
Original Filing Basis	1A;44E
Registration Number	0239383
Registration Date	March 6, 1928
Owner	(REGISTRANT) WILSDORF, HANS INDIVIDUAL GREAT BRITAIN 82 CHEMIN DU HAUT BIENNE SWITZERLAND (LAST LISTED OWNER) ROLEX WATCH U.S.A., INC. CORPORATION ASSIGNEE OF NEW YORK 665 FIFTH AVENUE NEW YORK NEW YORK 10022
Assignment Recorded	ASSIGNMENT RECORDED
Attorney of Record	Peter Cousins
Priority Date	July 29, 1926
Type of Mark	TRADEMARK
Register	PRINCIPAL
Affidavit Text	SECT 12C. SECT 15. SECTION 8(10-YR) 20080618.
Renewal	4TH RENEWAL 20080618

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Combined Declaration of Use In Commerce & Application For Renewal of Registration of A Mark Under Sections 8 & 9

The table below presents the data as entered.

Input Field	Entered
REGISTRATION NUMBER	0239383
REGISTRATION DATE	03/06/1928
SERIAL NUMBER	71255783
MARK SECTION	
MARK	OYSTER
OWNER SECTION (current)	
NAME	ROLEX WATCH U.S.A., INC.
STREET	665 FIFTH AVENUE
CITY	NEW YORK
STATE	New York
ZIP/POSTAL CODE	10022
COUNTRY	United States
OWNER SECTION (proposed)	
NAME	ROLEX WATCH U.S.A., INC.
STREET	665 FIFTH AVENUE
CITY	NEW YORK
STATE	New York
ZIP/POSTAL CODE	10022
COUNTRY	United States
EMAIL	pcousins@gibney.com
AUTHORIZED TO COMMUNICATE VIA E-MAIL	Yes
ATTORNEY SECTION (current)	
NAME	Peter Cousins
FIRM NAME	Gibney, Anthony & Flaherty, LLP
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CITY	New York
STATE	New York
POSTAL CODE	10022
COUNTRY	United States
PHONE	212 688 5151
FAX	212 688 8315
EMAIL	pcousins@gibney.com
ATTORNEY SECTION(proposed)	
NAME	Peter Cousins
FIRM NAME	Gibney, Anthony & Flaherty, LLP
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CITY	New York
STATE	New York
POSTAL CODE	10022
COUNTRY	United States
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AUTHORIZED TO COMMUNICATE VIA E-MAIL	Yes
GOODS AND/OR SERVICES SECTION	
U.S. CLASS	027
USE ON ALL GOODS OR SERVICES OR EXCUSABLE NON-USE FOR ENTIRE CLASS	YES
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SPECIMEN DESCRIPTION	Hangtag.
PAYMENT SECTION	
NUMBER OF CLASSES	1
NUMBER OF CLASSES PAID	1
SUBTOTAL AMOUNT	500
GRACE PERIOD	200
TOTAL AMOUNT	700
SIGNATURE SECTION	
SIGNATURE	/Peter Cousins/
SIGNATORY'S NAME	Peter Cousins
SIGNATORY'S POSITION	Attorney
DATE SIGNED	06/05/2008
PAYMENT METHOD	CC
FILING INFORMATION	
SUBMIT DATE	Thu Jun 05 09:34:06 EDT 2008
TEAS STAMP	USPTO/S08N09-65.211.72.22 6-20080605093406651693-02 39383-400944f6cdc1607a734 d9f343c2f3dd56d-CC-7281-2 0080605091907423239

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OMB No. 0651-0055 (Exp 10/31/2008)

Combined Declaration of Use In Commerce & Application For Renewal of Registration of A Mark Under Sections 8 & 9

To the Commissioner for Trademarks:

REGISTRATION NUMBER: 0239383

REGISTRATION DATE: 03/06/1928

MARK: OYSTER

The owner, ROLEX WATCH U.S.A., INC., having an address of 665 FIFTH AVENUE, NEW YORK, New York, United States 10022, is filing a Combined Declaration of Use In Commerce & Application For Renewal of Registration of A Mark Under Sections 8 & 9.

For U.S. Class 027, the owner, or its related company, is using the mark in commerce on or in connection with all goods or services listed in the existing registration for this class; or, the owner is claiming excusable non-use for this entire class.

The owner is submitting one specimen showing the mark as used in commerce on or in connection with any item in this class, consisting of a(n) Hangtag..

Specimen File1

The registrant hereby appoints Peter Cousins of Gibney, Anthony & Flaherty, LLP, 665 Fifth Avenue, New York, New York United States 10022 to file this Combined Declaration of Use In Commerce & Application For Renewal of Registration of A Mark Under Sections 8 & 9 on behalf of the registrant.

A fee payment in the amount of \$700 will be submitted with the form, representing payment for 1 class(es), plus any additional grace period fee, if necessary.

Declaration

Section 8: Declaration of Use in Commerce

Unless the owner has specifically claimed excusable non-use, the owner, or its related company, is using the mark in commerce on or in connection with the goods and/or services identified above, as evidenced by the attached specimen(s) showing the mark as used in commerce.

Section 9: Application for Renewal

The registrant requests that the registration be renewed for the goods and/or services identified above.

The undersigned being hereby warned that willful false statements and the like are punishable by fine or imprisonment, or both, under 18 U.S.C. Section 1001, and that such willful false statements and the like may jeopardize the validity of this document, declares that he/she is properly authorized to execute this document on behalf of the Owner; and all statements made of his/her own knowledge are true and that all statements made on information and belief are believed to be true.

Signature: /Peter Cousins/ Date: 06/05/2008

Signatory's Name: Peter Cousins

Signatory's Position: Attorney

Mailing Address:

Gibney, Anthony & Flaherty, LLP
665 Fifth Avenue
New York, New York 10022

Mailing Address:

Gibney, Anthony & Flaherty, LLP
665 Fifth Avenue
New York, New York 10022

Serial Number: 71255783

Internet Transmission Date: Thu Jun 05 09:34:06 EDT 2008

TEAS Stamp: USPTO/S08N09-65.211.72.226-2008060509340

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§8 affidavit	7205	20080605	\$100	1	1	\$100
Application for Renewal (§9)	7201	20080605	\$400	1	1	\$400
Grace period for §8	7206	20080605	\$100	1	1	\$100
Grace period for renewal	7203	20080605	\$100	1	1	\$100

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REGISTRATION NO: 0239383 SERIAL NO: 71/255783 MAILING DATE: 06/18/2008
REGISTRATION DATE: 03/06/1928
MARK: OYSTER
REGISTRATION OWNER: ROLEX WATCH U.S.A., INC.

CORRESPONDENCE ADDRESS:

Peter Cousins
Gibney, Anthony & Flaherty, LLP
665 Fifth Avenue
New York NY 10022

NOTICE OF ACCEPTANCE

15 U.S.C. Sec. 1058(a)(3)

THE COMBINED AFFIDAVIT AND RENEWAL APPLICATION FILED FOR THE ABOVE-IDENTIFIED REGISTRATION MEETS THE REQUIREMENTS OF SECTION 8 OF THE TRADEMARK ACT, 15 U.S.C. Sec. 1058.

ACCORDINGLY, THE SECTION 8 AFFIDAVIT IS ACCEPTED.

NOTICE OF RENEWAL

15 U.S.C. Sec. 1059(a)

THE COMBINED AFFIDAVIT AND RENEWAL APPLICATION FILED FOR THE ABOVE-IDENTIFIED REGISTRATION MEETS THE REQUIREMENTS OF SECTION 9 OF THE TRADEMARK ACT, 15 U.S.C. Sec. 1059.

ACCORDINGLY, THE REGISTRATION IS RENEWED.

THE REGISTRATION WILL REMAIN IN FORCE FOR CLASS(ES):
027.

HORN, ARLENE JOYCE
PARALEGAL SPECIALIST
POST-REGISTRATION DIVISION
571-272-9500

PLEASE SEE THE REVERSE SIDE OF THIS NOTICE FOR INFORMATION
CONCERNING REQUIREMENTS FOR MAINTAINING THIS REGISTRATION
ORIGINAL

REQUIREMENTS FOR MAINTAINING A FEDERAL TRADEMARK REGISTRATION**I) SECTION 8: AFFIDAVIT OF CONTINUED USE**

The registration shall remain in force for 10 years, except that the registration shall be canceled for failure to file an Affidavit of Continued Use under Section 8 of the Trademark Act, 15 U.S.C. Sec. 1058, at the end of each successive 10-year period following the date of registration.

Failure to file the Section 8 Affidavit will result in the cancellation of the registration.

II) SECTION 9: APPLICATION FOR RENEWAL

The registration shall remain in force for 10 years, subject to the provisions of Section 8, except that the registration shall expire for failure to file an Application for Renewal under Section 9 of the Trademark Act, 15 U.S.C. Sec. 1059, at the end of each successive 10-year period following the date of registration.

Failure to file the Application for Renewal will result in the expiration of the registration.

NO FURTHER NOTICE OR REMINDER OF THESE REQUIREMENTS WILL BE SENT TO THE REGISTRANT BY THE PATENT AND TRADEMARK OFFICE. IT IS RECOMMENDED THAT THE REGISTRANT CONTACT THE PATENT AND TRADEMARK OFFICE APPROXIMATELY ONE YEAR BEFORE THE EXPIRATION OF THE TIME PERIODS SHOWN ABOVE TO DETERMINE APPROPRIATE REQUIREMENTS AND FEES.

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- **Technical help:** For instructions on how to use TDR, or help in resolving **technical** glitches, please e-mail TDR@uspto.gov. If outside of the normal business hours of the USPTO, please e-mail [Electronic Business Support](#), or call 1-800-786-9199.
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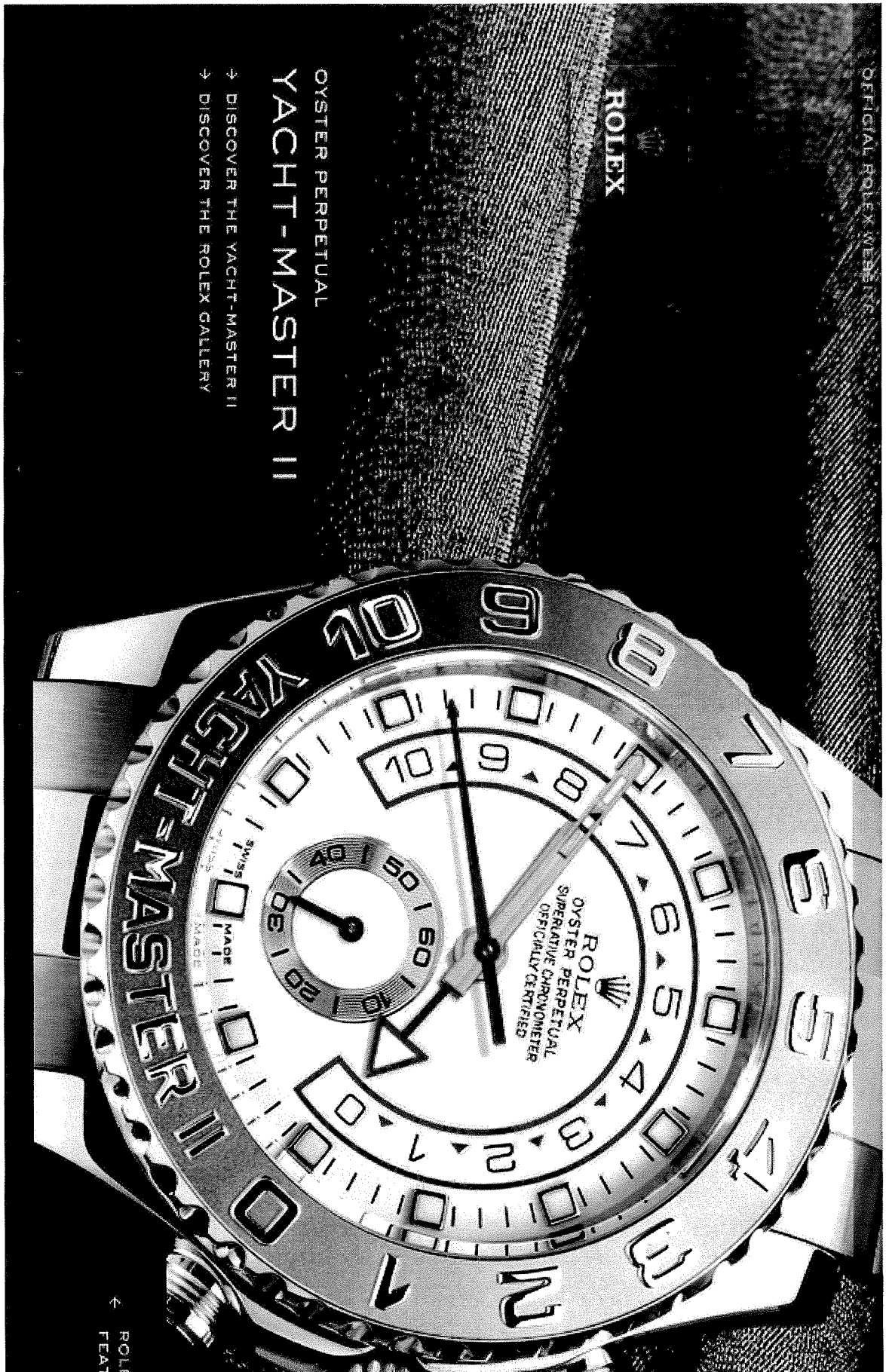
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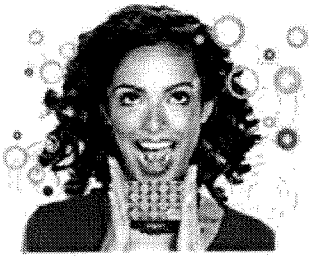
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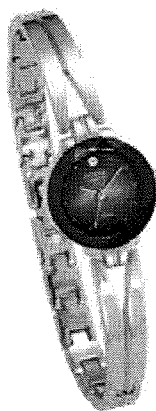
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